FIFTY-FOURTH DAY

MORNING SESSION

Senate Chamber, Olympia, Friday, March 3, 2006

The Senate was called to order at 9:00 a.m. by President Pro Tempore. The Secretary called the roll and announced to the President Pro Tempore that all Senators were present with the exception of Senator Mulliken.

The Sergeant at Arms Color Guard consisting of Pages Arielle Weinstein and Jonathan Hrehov, presented the Colors. Reverend Irene Martin of Saint James Episcopal Church offered the prayer.

MOTION

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

MOTION

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

MESSAGE FROM THE GOVERNOR
GUBERNATORIAL APPOINTMENTS

March 3, 2006

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

DAVID TROUTT, appointed January 6, 2006, for the term ending July 15, 2006, as Member of the Salmon Recovery Funding Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Natural Resources, Ocean & Recreation.

March 3, 2006

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

HEYWARD WATSON, appointed May 25, 2005, for the term ending March 26, 2009, as Member of the Higher Education Facilities Authority.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Early Learning, K-12 & Higher Education.

MOTION

On motion of Senator Eide, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

MOTION

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

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2685, by House Committee on Appropriations (originally sponsored by Representatives Fromhold, Conway, Lovick, Quall, Simpson, Ormsby and Moeller)

Making changes to general provisions in the public safety employees' retirement system.

The measure was read the second time.

MOTION

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

On page 2, on line 14, after "means ", insert "the Washington state department of natural resources, the Washington state department of social and health services, ".

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

MOTION

On motion of Senator Schoesler, Senators Stevens and Mulliken were excused.

The President Pro Tempore declared the question before the Senate to be the adoption of the committee amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 2685.

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

MOTION

On motion of Senator Fraser, the rules were suspended, Engrossed Substitute House Bill No. 2685 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fraser and Zarelli spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2685 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2685 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Absent: Senator Haugen - 1

Excused: Senator Mulliken - 1

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2685 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 3113, by House Committee on Higher Education & Workforce Education (originally sponsored by Representatives Sells, Kenney, Strow, McCoy, Haler, Dunshee, B. Sullivan, Lovick, Roberts and Hasegawa)

Expanding access to higher education using the university center model.

The measure was read the second time.

MOTION

On motion of Senator Pridemore, the rules were suspended, Substitute House Bill No. 3113 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pridemore, Berkey and Schmidt spoke in favor of passage of the bill.

MOTION

On motion of Senator Regala, Senator Haugen was excused.

Senator Jacobsen spoke on passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 3113.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3113 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Haugen - 1

SUBSTITUTE HOUSE BILL NO. 3113, 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 Shin: “On behalf of the higher education in Snohomish County, I want to express my profound appreciation for all your votes. Yes, it is true that many years when I was in the House, we try so hard to set up a four-year institution in the north of University of Washington. My aim to set up in Everett because it’s half way between Seattle and Bellingham but nothing in Bothell. I think Snohomish County fast growing population and high demand for education. This is why I want to thank you for your votes and supporting for this legislation. Thank you.”

MOTION

On motion of Senator Brandland, Senator Roach was excused.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2817, by House Committee on Higher Education & Workforce Education (originally sponsored by Representatives Sells, McCoy, Strow, Dunshee, Lovick, Jarrett, Morris, Ormsby, Morrell, Haler, O'Brien, Fromhold, Ericks, Kilmer and B. Sullivan)

Establishing technology priorities for institutions of higher education. Revised for 1st Substitute: Establishing a technology emphasis for institutions of higher education.

The measure was read the second time.

MOTION

Senator Pridemore moved that the following committee striking amendment by the Committee on Early Learning, K-12 & Higher Education be adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 28B.10 RCW to read as follows:

(1) The legislature recognizes the vital importance to the state's economic prosperity and the economic benefit of placing a priority on enrolling and conferring degrees upon students in the fields of engineering, technology, biotechnology, science, computer science, and mathematics.

(2) The legislature has significant concerns that other countries are outpacing the United States in graduating qualified engineers, and that major corporations within Washington state are searching out-of-state and even outside the United States to find the qualified and trained employees they need.

(3) Data compiled by the technology alliance shows that Washington state ranks thirty-fourth among the fifty states in the percentage of residents who have earned a science or engineering degree, per capita.

(4) Data collected by the office of financial management indicates that between the academic years of 1993-94 and 2003-04 at public four-year institutions of higher education in Washington state:

(a) There was a twelve percent decline in the number of full-time equivalents enrolled in the fields of engineering and related technologies; and

(b) There was nearly a nine percent decline in the number of bachelor's degrees conferred in the fields of engineering and related technologies.

(5) Data collected by the office of financial management also shows that for the 2003-04 academic year, only four percent of all full-time equivalents were enrolled in engineering and related technologies and just two percent of all full-time equivalents were enrolled in computer science studies at public four-year institutions of higher education in the state.

(6) Therefore, it is the intent of the legislature to promote increased access, delivery models, enrollment slots, and degree opportunities in the fields of engineering, technology, biotechnology, sciences, computer sciences, and mathematics. It is recognized that these areas of study and training are integrally linked to ensuring that Washington state's economy can compete nationally and globally in the twenty-first century marketplace. It is also recognized that community colleges play a unique role in supporting degree attainment in the fields of science, technology, engineering, and mathematics through the development of transferable curricula and the maintenance of viable articulation agreements with both public and private universities.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28B.10 RCW to read as follows:

(1) A state priority is established for institutions of higher education, including community colleges, to encourage growing numbers of enrollments and degrees in the fields of engineering, technology, biotechnology, sciences, computer sciences, and mathematics.

(2) In meeting this state priority, the legislature understands and recognizes that the demands of the economic marketplace

and the desires of students are not always on parallel tracks. Therefore, institutions of higher education shall determine local student demand for programs in the fields of engineering, technology, biotechnology, sciences, computer sciences, and mathematics and submit findings and proposed alternatives to meet demand to the higher education coordinating board and the legislature by November 1, 2008.

(3) While it is understood that these areas of emphasis should not be the sole focus of institutions of higher education. It is the intent of the legislature that steady progress in these areas occur. The higher education coordinating board shall track and report progress in the fields of engineering, technology, biotechnology, sciences, computer sciences, and mathematics including, but not limited to, the following information:

(a) The number of students enrolled in these fields on a biennial basis;

(b) The number of associate, bachelor's, and master's degrees conferred in these fields on a biennial basis;

(c) The amount of expenditures in enrollment and degree programs in these fields; and

(d) The number and type of public-private partnerships established relating to these fields among institutions of higher education, including community colleges, and leading corporations in Washington state.

(4) Institutions of higher education, including community colleges, shall be provided discretion and flexibility in achieving the objectives under this section. Examples of the types of institutional programs that may help achieve these objectives include, but are not limited to, establishment of institutes of technology, new polytechnic-based institutions, new divisions of existing institutions, and a flexible array of delivery models, including face-to-face learning, interactive courses, internet-based offerings, and instruction on main campuses, branch campuses, and other educational centers.

(5) The legislature recognizes the global needs of the economic marketplace for technologically prepared graduates, and the relationship between technology industries and higher education. Institutions of higher education, including community colleges, are strongly urged to consider science, engineering, and technology program growth in areas of the state that exhibit a high concentration of aerospace, biotechnology, and technology industrial presence. Expanded science and technology programs can gain from the proximity of experienced and knowledgeable industry leaders, while industry can benefit from access to new sources of highly trained and educated graduates."

Senators Pridemore and Berkey spoke in favor of adoption of the committee striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Early Learning, K-12 & Higher Education to Substitute House Bill No. 2817.

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

MOTION

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

On page 1, line 4 of the title, after "education;" strike the remainder of the title and insert "and adding new sections to chapter 28B.10 RCW."

MOTION

On motion of Senator Pridemore, the rules were suspended, Substitute House Bill No. 2817 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pridemore and Spanel spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2817 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2817 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Roach - 1

SUBSTITUTE HOUSE BILL NO. 2817 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Rasmussen: "I'm going to try to be really quick, but my little grandson, Kayden is watching TVW and can I just say hi to Kayden? Hi Kayden, Grammy loves you."

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2507, by House Committee on Higher Education & Workforce Education (originally sponsored by Representatives Kenney, Shabro, Hasegawa, Morrell, Rodne, Lantz and Ormsby)

Prohibiting false or misleading college degrees.

The measure was read the second time.

MOTION

Senator Pridemore moved that the following committee striking amendment by the Committee on Early Learning, K-12 & Higher Education be adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1** A new section is added to chapter 28B.85 RCW to read as follows:

(1) It is unlawful for a person to:

(a) Grant or award a false academic credential or offer to grant or award a false academic credential in violation of this section;

(b) Represent that a credit earned or granted by the person, in violation of this section, can be applied toward a credential offered by another person; or

(c) Solicit another person to seek a credential or to earn a credit that is offered in violation of this section.

(2) The definitions in section 2 of this act apply to this section.

(3) A violation of this section constitutes an unfair or deceptive act or practice in the conduct of trade or commerce under chapter 19.86 RCW.

(4) In addition to any other venue authorized by law, venue for the prosecution of an offense under this section is in the county in which an element of the offense occurs.

NEW SECTION. **Sec. 2** A new section is added to chapter 9A.60 RCW to read as follows:

(1) A person is guilty of issuing a false academic credential if th person knowingly:

(a) Grants or awards a false academic credential or offers to grant or award a false academic credential in violation of this section;

(b) Represents that a credit earned or granted by the person in violation of this section can be applied toward a credential offered by another person;

(c) Grants or offers to grant a credit for which a representation as described in (b) of this subsection is made; or (d) Solicits another person to seek a credential or to earn a credit the person knows is offered in violation of this section.

(2) A person is guilty of knowingly using a false academic credential if the person knowingly uses a false academic credential or falsely claims to have a credential issued by an institution of higher education that is accredited by an accrediting association recognized as such by rule of the higher education coordinating board:

(a) In a written or oral advertisement or other promotion of a business; or

(b) With the intent to:

(i) Obtain employment;

(ii) Obtain a license or certificate to practice a trade, profession, or occupation;

(iii) Obtain a promotion, compensation or other benefit, or an increase in compensation or other benefit, in employment or in the practice of a trade, profession, or occupation;

(iv) Obtain admission to an educational program in this state; or

(v) Gain a position in government with authority over another person, regardless of whether the person receives compensation for the position.

(3) The definitions in this subsection apply throughout this section and section 1 of this act.

(a) "False academic credential" means a document that provides evidence or demonstrates completion of an academic or professional course of instruction beyond the secondary level that results in the attainment of an academic certificate, degree, or rank, and that is not issued by a person or entity that: (i) Is an entity accredited by an agency recognized as such by rule of the higher education coordinating board or has the international equivalents of such accreditation; or (ii) is an entity authorized as a degree-granting institution by the higher education coordinating board; or (iii) is an entity exempt from the requirements of authorization as a degree-granting institution by the higher education coordinating board; or (iv) is an entity that has been granted a waiver by the higher education coordinating board from the requirements of authorization by the board. Such documents include, but are not limited to, academic certificates, degrees, coursework, degree credits, transcripts, or certification of completion of a degree.

(b) "Grant" means award, bestow, confer, convey, sell, or give.

(c) "Offer," in addition to its usual meanings, means advertise, publicize, or solicit.

(d) "Operate" includes but is not limited to the following:

(i) Offering courses in person, by correspondence, or by electronic media at or to any Washington location for degree credit;

(ii) Granting or offering to grant degrees in Washington; (iii) Maintaining or advertising a Washington location, mailing address, computer server, or telephone number, for any purpose, other than for contact with the institution's former students for any legitimate purpose related to the students having attended the institution.

(4) Issuing a false academic credential is a class C felony. (5) Knowingly using a false academic credential is a class C felony.

Sec. 3 RCW 28B.85.020 and 2005 c 274 s 246 are each amended to read as follows:

(1) The board:

(a) Shall adopt by rule, in accordance with chapter 34.05 RCW, minimum standards for degree-granting institutions concerning granting of degrees, quality of education, unfair business practices, financial stability, and other necessary measures to protect citizens of this state against substandard, fraudulent, or deceptive practices. The rules ((~~may~~)) shall require that an institution operating in Washington:

(i) Be accredited ((~~or be making progress toward accreditation by an accrediting agency recognized by the United States department of education. The board shall adopt the rules in accordance with chapter 34.05 RCW~~));

(ii) Have applied for accreditation and such application is pending before the accrediting agency;

(iii) Have been granted a waiver by the board waiving the requirement of accreditation; or

(iv) Have been granted an exemption by the board from the requirements of this subsection (1)(a);

(b) May investigate any entity the board reasonably believes to be subject to the jurisdiction of this chapter. In connection with the investigation, the board may administer oaths and affirmations, issue subpoenas and compel attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which the board deems relevant or material to the investigation. The board, including its staff and any other authorized persons, may conduct site inspections, the cost of which shall be borne by the institution, and examine records of all institutions subject to this chapter;

(c) Shall develop an interagency agreement with the work force training and education coordinating board to regulate degree-granting private vocational schools with respect to degree and nondegree programs; and

(d) Shall develop and disseminate information to the public about entities that sell or award degrees without requiring appropriate academic achievement at the postsecondary level, including but not limited to, a description of the substandard and potentially fraudulent practices of these entities, and advice about how the public can recognize and avoid the entities. To the extent feasible, the information shall include links to additional resources that may assist the public in identifying specific institutions offering substandard or fraudulent degree programs.

(2) Financial disclosures provided to the board by degree-granting private vocational schools are not subject to public disclosure under chapter 42.56 RCW.

Sec. 4 RCW 28B.85.040 and 2004 c 96 s 2 are each amended to read as follows:

(1) An institution or person shall not advertise, offer, sell, or award a degree or any other type of educational credential unless the student has enrolled in and successfully completed a prescribed program of study, as outlined in the institution's publications. This prohibition shall not apply to honorary credentials clearly designated as such on the front side of the diploma or certificate and awarded by institutions offering other educational credentials in compliance with state law.

(2) No exemption or waiver granted under this chapter is permanent. The board shall periodically review exempted

degree-granting institutions and degree-granting institutions granted a waiver, and continue exemptions or waivers only if an institution meets the statutory or board requirements for exemption or waiver in effect on the date of the review.

(3) Except as provided in subsection (1) of this section, this chapter shall not apply to:

(a) Any public college, university, community college, technical college, or institute operating as part of the public higher educational system of this state;

(b) Institutions that have been accredited by an accrediting association recognized by the agency for the purposes of this chapter: PROVIDED, That those institutions meet minimum exemption standards adopted by the agency; and PROVIDED FURTHER, That an institution, branch, extension, or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of any such accrediting association to qualify for this exemption;

(c) Institutions of a religious character, but only as to those education programs devoted exclusively to religious or theological objectives if the programs are represented in an accurate manner in institutional catalogs and other official publications;

(d) Honorary credentials clearly designated as such on the front side of the diploma or certificate awarded by institutions offering other educational credentials in compliance with state law; or

(e) Institutions not otherwise exempt which offer only workshops or seminars and institutions offering only credit-bearing workshops or seminars lasting no longer than three calendar days.

NEW SECTION. **Sec. 5** A new section is added to chapter 28A.405 RCW to read as follows:

A person who issues or uses a false academic credential is subject to sections 1 and 2 of this act.

NEW SECTION. **Sec. 6** A new section is added to chapter 28B.50 RCW to read as follows:

A person who issues or uses a false academic credential is subject to sections 1 and 2 of this act.

NEW SECTION. **Sec. 7** A new section is added to chapter 41.06 RCW to read as follows:

A person who issues or uses a false academic credential is subject to sections 1 and 2 of this act."

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

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Early Learning, K-12 & Higher Education to Engrossed Substitute House Bill No. 2507.

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

MOTION

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

On page 1, line 2 of the title, after "education;" strike the remainder of the title and insert "amending RCW 28B.85.020 and 28B.85.040; adding a new section to chapter 28B.85 RCW; adding a new section to chapter 9A.60 RCW; adding a new section to chapter 28A.405 RCW; adding a new section to chapter 28B.50 RCW; adding a new section to chapter 41.06 RCW; and prescribing penalties."

MOTION

On motion of Senator Pridemore, the rules were suspended, Engrossed Substitute House Bill No. 2507 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Schoesler and Pridemore spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2507 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2507 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 49

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2507 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1966, by Representatives Ericks, O'Brien, Lovick, Strow, Haler, Takko, Morrell, Nixon, Campbell, McIntire, Conway, Santos, Chase and Moeller

Classifying identity theft as a crime against persons.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 1966 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 1966.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1966 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 49

HOUSE BILL NO. 1966, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 3041, by Representatives Alexander, Nixon, Haigh, Darneille and P. Sullivan

Modifying voter registration timelines.

The measure was read the second time.

MOTION

On motion of Senator Kastama, the rules were suspended, House Bill No. 3041 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator Regala, Senator Thibaudeau was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 3041.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3041 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 48

Excused: Senator Thibaudeau - 1

HOUSE BILL NO. 3041, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2418, by House Committee on Capital Budget (originally sponsored by Representatives Springer, Miloscia, Chase, Morrell, Hasegawa, Darneille, Santos, P. Sullivan, Kagi, Green, Sells, Ormsby and O'Brien)

Increasing the availability of affordable housing.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 43.185 RCW to read as follows:

The legislature finds that Washington is experiencing an affordable housing crisis and that this crisis is growing exponentially every year as the population of the state expands and housing values increase at a rate that far exceeds most households' proportionate increase in income.

The fiscal and societal costs of the lack of adequate affordable housing are high for both the public and private sectors. Current levels of funding for affordable housing programs are inadequate to meet the housing needs of many low-income Washington households.

NEW SECTION. **Sec. 2.** The legislature may authorize a transfer of up to twenty-five million dollars for the fiscal year ending June 30, 2006, into the Washington housing trust fund created in RCW 43.185.030. Any portion of this act that is appropriated to the department shall be included in the calculation of annual funds available for determining the administrative costs of the department, which shall not exceed five percent of the annual funds available for the housing assistance program and the affordable housing program as authorized under RCW 43.185.030 and 43.185A.030.

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.185 RCW to read as follows:

The application process and distribution procedure for the allocation of funds are the same as the competitive application process and distribution procedure for the housing trust fund, described in this chapter and chapter 43.185A RCW, except for the funds applied to the homeless families services fund created in RCW 43.330.167, dollars appropriated to weatherization administered through the energy matchmaker program, dollars appropriated for housing vouchers for homeless persons, victims of domestic violence, and low-income persons or seasonal farm workers, and dollars appropriated to any program to provide financial assistance for grower-provided on-farm housing for low-income migrant or seasonal farm workers.

NEW SECTION. **Sec. 4.** A new section is added to chapter 43.185A RCW to read as follows:

The application process and distribution procedure for the allocation of funds are the same as the competitive application process and distribution procedure described in section 3 of this act.

NEW SECTION. **Sec. 5.** The department must report to the appropriate committees of the legislature how appropriated funds were utilized on a county or city specific basis no later than December 31, 2007.

Sec. 6. RCW 43.185C.010 and 2005 c 484 s 3 are each amended to read as follows:

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

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

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

(3) "Homeless person" means an individual living outside or in a building not meant for human habitation or which they have no legal right to occupy, in an emergency shelter, or in a temporary housing program which may include a transitional and supportive housing program if habitation time limits exist. This definition includes substance abusers, mentally ill people, and sex offenders who are homeless.

(4) "Washington homeless census" means an annual statewide census conducted as a collaborative effort by towns, cities, counties, community-based organizations, and state agencies, with the technical support and coordination of the department, to count and collect data on all homeless individuals in Washington.

(5) "Homeless housing account" means the state treasury account receiving the state's portion of income from revenue from the sources established by RCW 36.22.179.

(6) "Homeless housing grant program" means the vehicle by which competitive grants are awarded by the department, utilizing moneys from the homeless housing account, to local governments for programs directly related to housing homeless individuals and families, addressing the root causes of homelessness, preventing homelessness, collecting data on homeless individuals, and other efforts directly related to housing homeless persons.

(7) "Local government" means a county government in the state of Washington or a city government, if the legislative authority of the city affirmatively elects to accept the responsibility for housing homeless persons within its borders.

(8) "Housing continuum" means the progression of individuals along a housing-focused continuum with homelessness at one end and homeownership at the other.

(9) "Local homeless housing task force" means a voluntary local committee created to advise a local government on the creation of a local homeless housing plan and participate in a local homeless housing program. It must include a representative of the county, a representative of the largest city located within the county, at least one homeless or formerly homeless person, such other members as may be required to maintain eligibility for federal funding related to housing programs and services and if feasible, a representative of a private nonprofit organization with experience in low-income housing.

(10) "Long-term private or public housing" means subsidized and unsubsidized rental or owner-occupied housing in which there is no established time limit for habitation of less than two years.

(11) "Interagency council on homelessness" means a committee appointed by the governor and consisting of, at least, ((~~the director of~~)) policy level representatives of the following entities: (a) The department of community, trade, and economic development; (b) the ((~~secretary of the~~)) department of corrections; (c) the ((~~secretary of the~~)) department of social and health services; (d) the ((~~director of the~~)) department of veterans affairs; and (e) the ((~~secretary of the~~)) department of health.

(12) "Performance measurement" means the process of comparing specific measures of success against ultimate and interim goals.

(13) "Community action agency" means a nonprofit private or public organization established under the economic opportunity act of 1964.

(14) "Housing authority" means any of the public corporations created by chapter 35.82 RCW.

(15) "Homeless housing program" means the program authorized under this chapter as administered by the department at the state level and by the local government or its designated subcontractor at the local level.

(16) "Homeless housing plan" means the ten-year plan developed by the county or other local government to address housing for homeless persons.

(17) "Homeless housing strategic plan" means the ten-year plan developed by the department, in consultation with the interagency council on homelessness and the affordable housing advisory board.

(18) "Washington homeless client management information system" means a data base of information about homeless individuals in the state used to coordinate resources to assist homeless clients to obtain and retain housing and reach greater levels of self-sufficiency or economic independence when appropriate, depending upon their individual situations.

NEW SECTION. **Sec. 7.** A new section is added to chapter 43.185C RCW to read as follows:

(1) The interagency council on homelessness, as defined in RCW 43.185C.010, shall be convened not later than August 31, 2006, and shall meet at least two times each year and report to the appropriate committees of the legislature annually by December 31st on its activities.

(2) The interagency council on homelessness shall work to create greater levels of interagency coordination and to coordinate state agency efforts with the efforts of state and local entities addressing homelessness.

(3) The interagency council shall seek to:

(a) Align homeless-related housing and supportive service policies among state agencies;

(b) Identify ways in which providing housing with appropriate services can contribute to cost savings for state agencies;

(c) Identify policies and actions that may contribute to homelessness or interfere with its reduction;

(d) Review and improve strategies for discharge from state institutions that contribute to homelessness;

(e) Recommend policies to either improve practices or align resources, or both, including those policies requested by the affordable housing advisory board or through state and local housing plans; and

(f) Ensure that the housing status of people served by state programs is collected in consistent formats available for analysis.

Sec. 8. RCW 43.63A.655 and 1999 c 267 s 4 are each amended to read as follows:

(1) In order to improve services for the homeless, the department, within amounts appropriated by the legislature for this specific purpose, shall implement ((~~a~~)) the Washington homeless client management information system for the ongoing collection and ((~~analysis of~~)) updates of information about all homeless individuals in the state.

(2) Information about homeless individuals for the Washington homeless client management information system shall come from the Washington homeless census and from state agencies and community organizations providing services to homeless individuals and families. Personally identifying information about homeless individuals for the Washington homeless client management system may only be collected after having obtained informed, reasonably time limited written consent from the homeless individual to whom the information relates. Data collection shall be done in a manner consistent with federally informed consent guidelines regarding human research which, at a minimum, require that individuals be informed about the expected duration of their participation, an explanation of whom to contact for answers to pertinent questions about the data collection and their rights regarding their personal identifying information, an explanation regarding whom to contact in the event of injury to the individual related to the homeless client survey, a description of any reasonably foreseeable risks to the homeless individual, and a statement describing the extent to which confidentiality of records identifying the individual will be maintained.

(3) The Washington homeless client management information system shall serve as an online information and referral system to enable local governments and providers to connect homeless persons in the data base with available housing and other support services. Local governments shall develop a capacity for continuous case management, including

independent living plans, when appropriate, to assist homeless persons.

(4) The information in the Washington homeless client management information system will also provide the department with the information to consolidate and analyze data about the extent and nature of homelessness in Washington state, giving emphasis to information about the extent and nature of homelessness in Washington state among families with children.

(5) The system may be merged with other data gathering and reporting systems and shall:

(a) Protect the right of privacy of individuals;

(b) Provide for consultation and collaboration with all relevant state agencies including the department of social and health services, experts, and community organizations involved in the delivery of services to homeless persons; and

(c) Include related information held or gathered by other state agencies.

((~~(2)~~)) (6) Within amounts appropriated by the legislature, for this specific purpose, the department shall evaluate the information gathered and disseminate the analysis and the evaluation broadly, using appropriate computer networks as well as written reports.

(7) The Washington homeless client management information system shall be implemented by December 31, 2009, and updated with new homeless client information at least annually.

NEW SECTION. **Sec. 9.** (1) The department of community, trade, and economic development shall conduct a study to evaluate the potential development of a voluntary statewide, low-income household housing waiting list data base that would include information on all low-income households requesting housing assistance for the purpose of connecting such households with appropriate housing opportunities. The study shall investigate and evaluate the following:

(a) The anticipated benefits of such a statewide waiting list to low-income households and low-income housing providers;

(b) The cost of implementing and maintaining the data base; and

(c) Best practices from other states or from counties in other states that currently have a similar data base.

The department shall report the results of this study to the appropriate committees of the legislature by December 31, 2007.

(2) This section expires December 31, 2007.

NEW SECTION. **Sec. 10.** A new section is added to chapter 43.185A RCW to read as follows:

(1) The department shall create or purchase, and implement by December 31, 2009, a master affordable housing data base that includes specific information about existing affordable rental housing stock in the state of Washington. The data base shall be maintained and continually updated by the department, and the department may cross-reference and exchange information between this data base and other existing state housing data bases.

(2) The data base shall include information on all rental units that meet the affordable housing definition and have received or continue to receive funding from the federal, state, or local government, or other nonprofit organization or financing through the Washington housing finance commission. The department shall encourage private landlords to voluntarily submit information about private rental units that are affordable for low-income households to be included in the data base.

(3) The data base shall include information about rental units that shall be determined by the department. However, the data base must include, at a minimum, measures for quality, cost, safety, and size.

(4) Other state agencies, local governments, local public agencies, including water and sewer districts, housing authorities, and other housing organizations shall cooperate with the department to create and update the affordable housing data base by providing to the department any requested existing information about rental housing units within the jurisdiction.

(5) The data base shall be searchable by the department, local governments, community housing organizations, including housing authorities, and the public according to housing characteristics determined by the department including, at a minimum, location, cost, and size. The data base will be utilized for data collection about Washington's affordable rental housing stock and will also serve as a low-income housing referral system to connect low-income households seeking housing with appropriate and available units.

NEW SECTION. **Sec. 11.** A new section is added to chapter 43.185A RCW to read as follows:

The department, the housing finance commission, the affordable housing advisory board, and all local governments, housing authorities, and other nonprofits receiving state housing funds or financing through the housing finance commission shall, by December 31, 2006, and annually thereafter, review current housing reporting requirements related to housing programs and services and give recommendations to streamline and simplify all planning and reporting requirements to the department of community, trade, and economic development, which will compile and present the recommendations annually to the legislature. The entities listed in this section shall also give recommendations for additional legislative actions that could promote affordable housing and end homelessness.

NEW SECTION. **Sec. 12.** A new section is added to chapter 35.82 RCW to read as follows:

A joint housing authority may be dissolved pursuant to substantially identical resolutions or ordinances of the legislative authority of each of the counties or cities that previously authorized that joint housing authority. These resolutions or ordinances may authorize the execution of an agreement among the counties, cities, and the joint housing authority that provides for the timing, distribution of assets, obligations and liabilities, and other matters deemed necessary or appropriate by the legislative authorities.

(2) Each resolution or ordinance dissolving a joint housing authority shall provide for the following:

(a) Activation or reactivation of a housing authority or joint housing authority by each of the cities and counties that previously authorized the joint housing authority and any additional cities or counties that are then to be added. This activation or reactivation takes effect upon the dissolution of the joint housing authority or at an earlier time provided in the resolutions or ordinances dissolving the joint housing authority; and

(b) Distribution of all assets, obligations, and liabilities of the joint housing authority to the housing authorities activated or reactivated under (a) of this subsection. Distribution of assets, obligations, and liabilities may be based on any, or a combination of any of, the following considerations:

(i) The population within the boundaries of each of the housing authorities activated or reactivated under (a) of this subsection;

(ii) The number of housing units owned by the joint housing authority within the boundaries of each of the housing authorities activated or reactivated under (a) of this subsection;

(iii) The number of low-income residents within the boundaries of each of the housing authorities activated or reactivated under (a) of this subsection;

(iv) The effect of the proposed distribution on the viability of the housing authorities activated or reactivated under (a) of this subsection; or

(v) Any other reasonable criteria to determine the distribution of assets, obligations, and liabilities.

(3) Each activated or reactivated housing authority shall be responsible for debt service on bonds or other obligations issued or incurred to finance the acquisition, construction, or improvement of the projects, properties, and other assets that have been distributed to them under the dissolution. However, if an outstanding bond issue is secured in whole or in part by the general revenues of the joint housing authority being dissolved, each housing authority activated or reactivated under subsection (2)(a) of this section shall remain jointly and severally liable for retirement of debt service through repayment of those outstanding bonds and other obligations of the joint housing authority until paid or defeased, from general revenues of each of the activated or reactivated housing authorities, and from any other revenues and accounts that had been expressly pledged by the joint housing authority to the payment of those bonds or other obligations. As used in this subsection, "general revenues" means all revenues of a housing authority from any source, but only to the extent that those revenues are available to pay debt service on bonds or other obligations and are not then or thereafter pledged or restricted by law, regulation, contract, covenant, resolution, deed of trust, or otherwise, solely to another particular purpose.

NEW SECTION. **Sec. 13.** RCW 43.63A.655 is recodified as a section in chapter 43.185C RCW.

NEW SECTION. **Sec. 14.** If specific funding is not transferred from the general fund to the Washington housing trust fund for the purposes of this act, referencing this act by bill or chapter number, by June 30, 2006, in the omnibus appropriations act, this act is null and void."

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

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Second Substitute House Bill No. 2418.

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

MOTION

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

On page 1, line 1 of the title, after "housing;" strike the remainder of the title and insert "amending RCW 43.185C.010 and 43.63A.655; adding new sections to chapter 43.185 RCW; adding new sections to chapter 43.185A RCW; adding new sections to chapter 43.185C RCW; adding a new section to chapter 35.82 RCW; creating new sections; recodifying RCW 43.63A.655; and providing an expiration date."

MOTION

On motion of Senator Fairley, the rules were suspended, Engrossed Second Substitute House Bill No. 2418 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fairley and Benton spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2418 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2418 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Voting nay: Senator Schoesler - 1

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2418 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2424, by Representatives Grant, Kessler, Williams, Morrell, Condotta, Clibborn, Linville, Cox, Hunt, Buck, Conway, Haigh, Sump, P. Sullivan, Walsh, Springer, Buri, Haler, Newhouse, Ericksen, Morris, Ericks, Kretz, Strow, B. Sullivan, Dunn, Upthegrove, Ormsby, McDermott, Holmquist and Takko

Providing sales and use tax exemptions for users of farm fuel.

The measure was read the second time.

MOTION

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

On page 1, line 8, after "diesel fuel" insert ", or aircraft fuel as defined in RCW 82.42.010(5),"

On page 2, line 4, after "diesel fuel" insert ", or aircraft fuel as defined in RCW 82.42.010(5),"

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

The President Pro Tempore declared the question before the Senate to be the adoption of the committee amendment by the Committee on Ways & Means to House Bill No. 2424.

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

MOTION

On motion of Senator Rasmussen, the rules were suspended, House Bill No. 2424 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rasmussen, Schoesler, Honeyford, Mulliken and Hewitt spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 2424 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2424 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 4; Absent, 1; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker and Zarelli - 44

Voting nay: Senators Kohl-Welles, Pridemore, Thibaudeau and Weinstein - 4

Absent: Senator Schmidt - 1

HOUSE BILL NO. 2424 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, House Bill No. 2424 was immediately transmitted to the House of Representatives.

STATEMENT FOR THE JOURNAL

Though present, I inadvertently missed the vote on final passage for House Bill No. 2424, which exempts from the sales and use tax certain fuels purchased by a farm fuel user. I would like the journal to reflect that I support this measure and would have voted for the bill on final passage.

DAVE SCHMIDT, 44th Legislative District

SECOND READING

FOURTH SUBSTITUTE HOUSE BILL NO. 1483, by House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Dickerson, McDonald, Moeller, Darneille, Jarrett, Simpson, Morrell, Sommers, Kenney, McDermott, Kagi, Chase and Clibborn)

Creating an "investing in youth program." Revised for 4th Substitute: Establishing a reinvesting in youth program.

The measure was read the second time.

MOTION

On motion of Senator Hargrove, the rules were suspended, Fourth Substitute House Bill No. 1483 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove, Stevens, Esser and Kohl-Welles spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Fourth Substitute House Bill No. 1483.

ROLL CALL

The Secretary called the roll on the final passage of Fourth Substitute House Bill No. 1483 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 2; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47.

Absent: Senators Fraser and Roach - 2.

FOURTH SUBSTITUTE HOUSE BILL NO. 1483, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Jacobsen: "If, with permission of the body I would like to ask the clerk to read a letter from the Director of the Department of Fish & Wildlife."

March 2, 2006

State of Washington
Department of Fish and Wildlife

The Honorable Bob Oke
P. O. Box 40426
Olympia, WA 98504-0426

Dear Senator Oke,

It is with great pride that I offer my heart-felt appreciation for your service to the citizens and natural resources of the state of Washington. Your efforts within the state Legislature have resulted in dramatic, long-term impacts on our fish and wildlife management programs and your contributions as a sportsman have made positive impressions on the lives of the many people who have known and worked with you.

I know that an important focus for you has always been to encourage youth to recreate outdoors. Special youth seasons for upland birds have been created under your guidance on both sides of the state. Your philosophy of getting kids outdoors to engage in clean, healthy activities is expanding and is strongly supported by many.

Your keen interest in pheasants has expanded the emphasis and the attention that the state pays to pheasant hunting recreation. You are the primary reason that the eastern Washington pheasant enhancement program was instituted to address hunting opportunity and habitat improvement. In addition, your leadership helped save the western Washington pheasant program during fiscal challenges faced by the Department of Fish and Wildlife. Since that time, pheasant production has been consolidated into one facility that has been modernized into a stat-of-the-art game farm that produces the same number of pheasants that two farms with twice the staff raised in the early 1990s. These programs continue to improve recreational hunting opportunities.

I would also like to acknowledge all of your efforts to secure funding for the Puget Sound recreational salmon and marine fish enhancement program. You played a leading role in the early 1990s in the crafting of the Puget Sound Recreational Salmon and Marine Fisheries Enhancement Program that culminated with the passage of Engrossed Substitute House Bill No. 2055 in 1993 that provided the necessary funding stability for this program. Your efforts and support of this program

during the last 13 years has led to productive recreational fisheries throughout Puget Sound. The popular Blackmouth Program has produced approximately 1.7 million delayed release fall chinook per year and countless hours of fishing opportunity across Puget Sound. In addition, this program has provided significant economic benefits to Washington State.

Your other accomplishments in support of hunters and fishers are numerous and are deeply embedded in the fabric of Washington's fish and wildlife management programs. I am honored to have had the opportunity to work together and it is my sincere belief that citizens of the State of Washington, and Washington's fish and wildlife resources will always be indebted to you for your service.

In recognition for your work on behalf of the hunters and fishers of the state, I am pleased to announce that the Centralia Game Farm will be renamed, in your honor, the Bob Oke Game Farm.

Sincerely,
JEFF KOENINGS, PH. D., Director

PERSONAL PRIVILEGE

Senator Hargrove: "Thank you Madam President. I just wanted to say what a real pleasure, Bob, to know you personally as a friend. I know you said you might retire or you said you might come back if certain bills didn't pass to which I responded, 'I'm going go to go and make sure those bills don't pass. I would like to see Bob back. He is going to be missed if he does retire because he is such a fine Christian gentleman. He has always had a smile for us, a comforting tap on the shoulder. I can not remember an angry word out Bob Oke even when the sampling bill was getting killed in the House. Over, over, over and over. How many times? Sixty times? Ok, a lot of times. It's been a real pleasure to know you and count you as my friend. Thank you Bob."

PERSONAL PRIVILEGE

Senator Swecker: "Thank you Madam President. Well, this is a real honor. This game farm is located in my district in Centralia. In fact it's located right out behind my church where I go to church on Sunday. So I have two ways to drive to church and I know which way I am going to be driving now because I want to be able to look at this sign when I go by. You may all remember Bob for Bob's bridge, but I'm going to remember him for Bob's Game Farm."

INTRODUCTION OF SPECIAL GUESTS

The President Pro Tempore welcomed and introduced Mrs. Judy Oke, the wife of Senator Bob Oke, who was seated at the rostrum, Pages from Senator Okes district; Spencer Ethan Minshull; Travis Lee Stephens; Daniel Lee Hageman and David James Hageman who were also seated on the rostrum were also recognized.

INTRODUCTION OF SPECIAL GUESTS

The President Pro Tempore welcomed and introduced Ron Antill, Supervisor of the Centralia Game Bird Farm; Dr. Jeff Koenings, Director of the Department of Fish & Wildlife; Mr. Larry Peck, Assistant Director who presented Senator Oke with a mock up of the "Bob Oke Game Farm" sign at the bar of the Senate

INTRODUCTION OF SPECIAL GUESTS

The President Pro Tempore welcome and introduced the Department of Fish and Wildlife staff who were seated in the Gallery.

PERSONAL PRIVILEGE

Senator Oke: "Thank you and another big shock. I mean I can't tell you how many days I've been so honored, I didn't have to reach so hard for the Kleenex. Most of you probably don't know, I do love hunting pheasants but more importantly I do love seeing families hunt pheasants and young people. It just makes them better people and it did with me. Over the years maybe I shouldn't say this on the floor, but the capital budget been moving a little money into the pheasant in Centralia. Just after I was elected it was the only farm. We had one on Whidbey and closed it down, but now we only one pheasant farm in the State of Washington. We used to have about nine I think. That farm that we have in Centralia, I would invite all of you to come down Ron and his wife Darlene run the farm. They are there twenty-four hours a day, all through the year. It's just great to go down when the little chicks are all out and running around. I think it's the best pheasant farm in the United States and it's distributing pheasants for people to hunt up and down the west side. Those folks couldn't hunt anymore because it's too expensive to go to the other side but I've had folks a lot older than I, in their eighties. The only thing they have left in life is this dog they love dearly and that the fact that they can get out to a place and maybe, and most times, get at least a shot at a rooster. It's a wonderful program and thank you all of you for honoring me. I don't feel like I deserve any honor but I just love that rooster. Thank you."

PERSONAL PRIVILEGE

Senator Hewitt: "Thank you Madam President. Bob, when I met you six years I didn't know what a guzzler was and today I know what a guzzler is. If you don't know guzzler is, it is a little thing they put on the ground out in pheasant territory, captures the water so the pheasant can drink. You know, I can't remember a day ever seeing you with a suit on that you didn't have that pheasant on the lapel. What I really want to say is the last six years that I got to know you, you're one of the finest gentlemen that I have ever met in my entire life and I'm hoping that you're over in my territory this fall doing exactly what you told me you wanted to do. Two things, pheasant hunt and work for the people. Thank you Robert. We all love you."

PERSONAL PRIVILEGE

Senator Rasmussen: "Thank you Madam President. Well, I would also like to rise to a point of personal privilege and also be able to say thank you to Bob Oke, to Senator Oke. I'm going to say this on behalf of all the youth. Our Tacoma sportsman club is a marvelous, wonderful club but we really dedicate a lot to the youth and especially in our programs hunters safety and all the other issues. They, I know, would want me to tell you thank you for all you've done for our young people. Hunting, fishing is a chance for our young people to can go out with their moms and dads and be able to recreate. Get a long better. It is a tremendous program. I know my little granddaughter finished hunter safety and we were so proud of her because this is what it should be about. You know, our young people with their moms and dads. Thank you so much for working for the pheasants, for the fish and for all of our hunting programs and recreation programs throughout our state because it is for the youth and it is for their relationship with their parents, with their grandpas

and grandmas and I just want to tell you thank you from the bottom of my heart."

PERSONAL PRIVILEGE

Senator Deccio: "Bob, the thing I like about you is, once you set your sights on something you never give up until the deal is done. I can think of three issues that you were involved in and I want to tell you I like that because I like to think maybe I do the same thing. That's the way you get things done around here, you got to be patient. You got to set your sights. You got to keep moving till you get there and even if it takes five or six years, Bob's a good example of that and I admire you for it."

SECOND READING

HOUSE BILL NO. 2501, by Representatives Schual-Berke, Cody and Morrell

Regulating group health benefit plan coverage of mental health services.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, House Bill No. 2501 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Deccio spoke in favor of passage of the bill.

MOTION

On motion of Senator Regala, Senators Doumit and Pridemore were excused.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 2501.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2501 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 2; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Oke, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 46

Absent: Senators Haugen and Mulliken - 2

Excused: Senator Pridemore - 1

HOUSE BILL NO. 2501, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2573, by House Committee on Health Care (originally sponsored by Representatives Morrell, Wallace, Clibborn, Cody, Flannigan, Simpson, Green, Ormsby, Springer, Kilmer, Moeller, Kagi and Conway)

Adopting health information technology to improve quality of care.

The measure was read the second time.

MOTION

Senator Keiser moved that the following committee amendment by the Committee on Health & Long-Term Care be adopted.

On page 6, after line 27, insert the following:

"NEW SECTION. **Sec. 4.** (1) The department of corrections shall create a demonstration project with one county jail system, one city jail system in the same county as the county jail system, and one state prison to demonstrate an integrated electronic health records system to facilitate and expedite the transfer of inmate health information between state and local correctional facilities.

(a) The demonstration project shall at a minimum be partially operational prior to September 1, 2006.

(b) The demonstration project data shall be available to the legislature by December 31, 2006.

(c) If specific funding is not provided for this subsection, the department is not required to complete the demonstration project.

(2) The department of corrections, in consultation with the Washington state health care authority, the Washington association of sheriffs and police chiefs, the Washington association of county officials, the Washington state association of counties, and the association of Washington cities shall prepare a recommendation to the 2007 legislature on how to implement a statewide integrated electronic health records system to facilitate and expedite the transfer of inmate health information between state and local correctional facilities. The recommendation shall include data from similar demonstration projects, the cost necessary to implement the statewide program, anticipated savings created to state and local governments, the benefits of such a system, any relevant data from other states that have implemented similar statewide programs, and whether any statutory changes are necessary to implement a statewide system. The recommendations shall be presented to the legislature by December 31, 2006."

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

The President Pro Tempore declared the question before the Senate to be the adoption of the committee amendment by the Committee on Health & Long-Term Care to Substitute House Bill No. 2573.

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

MOTION

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

On page 1, line 2 of the title, strike "a new section" and insert "new sections"

MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 2573 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Deccio spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2573 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2573 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 2; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Voting nay: Senators McCaslin and Morton - 2

Absent: Senators Haugen and Mulliken - 2

SUBSTITUTE HOUSE BILL NO. 2573 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2342, by House Committee on Appropriations (originally sponsored by Representatives Moeller, Appleton, Nixon, Hunt, Curtis, Lantz, Morrell, Springer, Wallace, Fromhold, Kagi, Roberts, Cody, Ericks, Green and Ormsby)

Establishing a health care declarations registry.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, Second Substitute House Bill No. 2342 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Deccio spoke in favor of passage of the bill.

MOTION

On motion of Senator Schoesler, Senator Mulliken was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2342.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2342 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 1; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Voting nay: Senator Mulliken - 1

Absent: Senator Spanel - 1

SECOND SUBSTITUTE HOUSE BILL NO. 2342, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2352, by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris, Hudgins and B. Sullivan)

Modifying net metering provisions.

The measure was read the second time.

MOTION

Senator Poulsen moved that the following committee striking amendment by the Committee on Water, Energy & Environment be adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 80.60.010 and 2000 c 158 s 1 are each amended to read as follows:

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

(1) "Commission" means the utilities and transportation commission.

(2) "Customer-generator" means a user of a net metering system.

(3) "Electrical company" means a company owned by investors that meets the definition of RCW 80.04.010.

(4) "Electric cooperative" means a cooperative or association organized under chapter 23.86 or 24.06 RCW.

(5) "Electric utility" means any electrical company, public utility district, irrigation district, port district, electric cooperative, or municipal electric utility that is engaged in the business of distributing electricity to retail electric customers in the state.

(6) "Irrigation district" means an irrigation district under chapter 87.03 RCW.

(7) "Municipal electric utility" means a city or town that owns or operates an electric utility authorized by chapter 35.92 RCW.

(8) "Net metering" means measuring the difference between the electricity supplied by an electric utility and the electricity generated by a customer-generator ((~~that is fed back to the electric utility~~)) over the applicable billing period.

(9) "Net metering system" means a fuel cell ((~~or~~)), a facility that produces electricity and used and useful thermal energy from a common fuel source, or a facility for the production of electrical energy that generates renewable energy, and that:

(a) ((~~Uses as its fuel either solar, wind, or hydropower;~~

~~(b)~~)) Has ((~~a~~)) an electrical generating capacity of not more than ((~~twenty-five~~)) one hundred kilowatts;

((~~(c)~~)) (b) Is located on the customer-generator's premises;

((~~(d)~~)) (c) Operates in parallel with the electric utility's transmission and distribution facilities; and

((~~(e)~~)) (d) Is intended primarily to offset part or all of the customer-generator's requirements for electricity.

(10) "Port district" means a port district within which an industrial development district has been established as authorized by Title 53 RCW.

(11) "Public utility district" means a district authorized by chapter 54.04 RCW.

(12) "Renewable energy" means energy generated by a facility that uses water, wind, solar energy, or biogas from animal waste as a fuel.

Sec. 2. RCW 80.60.020 and 2000 c 158 s 2 are each amended to read as follows:

An electric utility:

(1) Shall offer to make net metering available to eligible customers-generators on a first-come, first-served basis until the cumulative generating capacity of net metering systems equals ((~~0.1~~)) 0.25 percent of the utility's peak demand during 1996((~~; of which not less than 0.05 percent shall be attributable to net metering systems that use as its fuel either solar, wind, or hydropower~~)). On January 1, 2014, the cumulative generating capacity available to net metering systems will equal 0.5 percent of the utility's peak demand during 1996. Not less than one-half of the utility's 1996 peak demand available for net metering systems shall be reserved for the cumulative generating capacity attributable to net metering systems that generate renewable energy;

(2) Shall allow net metering systems to be interconnected using a standard kilowatt-hour meter capable of registering the flow of electricity in two directions, unless the commission, in the case of an electrical company, or the appropriate governing body, in the case of other electric utilities, determines, after appropriate notice and opportunity for comment:

(a) That the use of additional metering equipment to monitor the flow of electricity in each direction is necessary and appropriate for the interconnection of net metering systems, after taking into account the benefits and costs of purchasing and installing additional metering equipment; and

(b) How the cost of purchasing and installing an additional meter is to be allocated between the customer-generator and the utility;

(3) Shall charge the customer-generator a minimum monthly fee that is the same as other customers of the electric utility in the same rate class, but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge unless the commission, in the case of an electrical company, or the appropriate governing body, in the case of other electric utilities, determines, after appropriate notice and opportunity for comment that:

(a) The electric utility will incur direct costs associated with interconnecting or administering net metering systems that exceed any offsetting benefits associated with these systems; and

(b) Public policy is best served by imposing these costs on the customer-generator rather than allocating these costs among the utility's entire customer base.

Sec. 3. RCW 80.60.030 and 1998 c 318 s 4 are each amended to read as follows:

Consistent with the other provisions of this chapter, the net energy measurement must be calculated in the following manner:

(1) The electric utility shall measure the net electricity produced or consumed during the billing period, in accordance with normal metering practices.

(2) If the electricity supplied by the electric utility exceeds the electricity generated by the customer-generator and fed back to the electric utility during the billing period, the customer-generator shall be billed for the net electricity supplied by the electric utility, in accordance with normal metering practices.

(3) If electricity generated by the customer-generator exceeds the electricity supplied by the electric utility, the customer-generator:

(a) Shall be billed for the appropriate customer charges for that billing period, in accordance with RCW 80.60.020; and

(b) Shall be credited for the excess kilowatt-hours generated during the billing period, with this kilowatt-hour credit appearing on the bill for the following billing period.

((~~At the beginning~~)) On April 30th of each calendar year, any remaining unused kilowatt-hour credit accumulated during the previous year shall be granted to the electric utility, without any compensation to the customer-generator.

Sec. 4. RCW 80.60.040 and 2000 c 158 s 3 are each amended to read as follows:

(1) A net metering system used by a customer-generator shall include, at the customer-generator's own expense, all equipment necessary to meet applicable safety, power quality, and interconnection requirements established by the national electrical code, national electrical safety code, the institute of electrical and electronics engineers, and underwriters laboratories.

(2) The commission, in the case of an electrical company, or the appropriate governing body, in the case of other electric utilities, after appropriate notice and opportunity for comment, may adopt by regulation additional safety, power quality, and interconnection requirements for customer-generators, including limitations on the number of customer generators and total capacity of net metering systems that may be interconnected to any distribution feeder line, circuit, or network that the commission or governing body determines are necessary to protect public safety and system reliability.

(3) An electric utility may not require a customer-generator whose net metering system meets the standards in subsections (1) and (2) of this section to comply with additional safety or performance standards, perform or pay for additional tests, or purchase additional liability insurance. However, an electric utility shall not be liable directly or indirectly for permitting or continuing to allow an attachment of a net metering system, or for the acts or omissions of the customer-generator that cause loss or injury, including death, to any third party."

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

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Water, Energy & Environment to Engrossed Substitute House Bill No. 2352.

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

MOTION

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

On page 1, line 1 of the title, after "metering;" strike the remainder of the title and insert "and amending RCW 80.60.010, 80.60.020, 80.60.030, and 80.60.040."

MOTION

On motion of Senator Poulsen, the rules were suspended, Engrossed Substitute House Bill No. 2352 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Morton spoke in favor of passage of the bill.

MOTION

On motion of Senator Weinstein, Senator Doumit was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2352 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2352 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 1; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 46

Voting nay: Senator Delvin - 1

Absent: Senator Hargrove - 1

Excused: Senator Doumit - 1

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2352 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2446, by House Committee on Local Government (originally sponsored by Representatives Buri, Sump and Haler)

Permitting certain school district substitute employee contracts.

The measure was read the second time.

MOTION

On motion of Senator Weinstein, the rules were suspended, Substitute House Bill No. 2446 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Weinstein and Schoesler spoke in favor of passage of the bill.

MOTION

On motion of Senator Regala, Senator Fairley was excused.

POINT OF INQUIRY

Senator Benton: "Would Senator Schoesler yield to a question? Senator Schoesler, for a number of years, we've had some concerns in the legislature over the retire-rehire situation where people retire and their contracted back. Is this bill tight enough to where it only applies to very small rural districts and does the retire-rehire issue really present itself in this legislation?"

Senator Schoesler: "Thank you for your concern Senator Benton. This bill requires a district to declare a shortage of substitute teachers. It applies only to districts of under two-hundred total students and does not reference retire-rehire anywhere in any of the new language."

Senator Benton spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2446.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2446 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Eide, Esser, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Excused: Senators Doumit and Fairley - 2

SUBSTITUTE HOUSE BILL NO. 2446, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1650, by House Committee on Criminal Justice & Corrections (originally sponsored by Representatives O'Brien, Newhouse, Lovick and Rodne)

Addressing the failure to respond to citations and notices of infractions. Revised for 1st Substitute: Decriminalizing refusal to sign citations and notices of infractions issued electronically or by mail.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.61.021 and 1997 1st sp.s. c 1 s 1 are each amended to read as follows:

(1) Any person requested or signaled to stop by a law enforcement officer for a traffic infraction has a duty to stop.

(2) Whenever any person is stopped for a traffic infraction, the officer may detain that person for a reasonable period of time necessary to identify the person, check for outstanding warrants, check the status of the person's license, insurance identification card, and the vehicle's registration, and complete and issue a notice of traffic infraction.

(3) Any person requested to identify himself or herself to a law enforcement officer pursuant to an investigation of a traffic infraction has a duty to identify himself or herself((~~,~~)) and give his or her current address((~~, and sign an acknowledgement of receipt of the notice of infraction~~)).

Sec. 2. RCW 46.63.060 and 1993 c 501 s 9 are each amended to read as follows:

(1) A notice of traffic infraction represents a determination that an infraction has been committed. The determination will be final unless contested as provided in this chapter.

(2) The form for the notice of traffic infraction shall be prescribed by rule of the supreme court and shall include the following:

(a) A statement that the notice represents a determination that a traffic infraction has been committed by the person named in the notice and that the determination shall be final unless contested as provided in this chapter;

(b) A statement that a traffic infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction; that the penalty for a traffic infraction may include sanctions against the person's driver's license including suspension, revocation, or denial; that the penalty for a traffic infraction related to standing, stopping, or parking may include nonrenewal of the vehicle license;

(c) A statement of the specific traffic infraction for which the notice was issued;

(d) A statement of the monetary penalty established for the traffic infraction;

(e) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

(f) A statement that at any hearing to contest the determination the state has the burden of proving, by a preponderance of the evidence, that the infraction was committed; and that the person may subpoena witnesses including the officer who issued the notice of infraction;

(g) A statement that at any hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of the infraction the person will be deemed to have committed the infraction and may not subpoena witnesses;

(h) A statement that the person must respond to the notice as provided in this chapter within fifteen days or the person's driver's license or driving privilege will be suspended by the department until any penalties imposed pursuant to this chapter have been satisfied; and

(i) A statement that failure to appear at a hearing requested for the purpose of contesting the determination or for the purpose of explaining mitigating circumstances will result in the suspension of the person's driver's license or driving privilege, or in the case of a standing, stopping, or parking violation, refusal of the department to renew the vehicle license, until any penalties imposed pursuant to this chapter have been satisfied((;

(j) A statement, which the person shall sign, that the person promises to respond to the notice of infraction in one of the ways provided in this chapter)).

Sec. 3. RCW 46.64.015 and 2004 c 43 s 5 are each amended to read as follows:

Whenever any person is arrested for any violation of the traffic laws or regulations which is punishable as a misdemeanor or by imposition of a fine, the arresting officer may serve upon him or her a traffic citation and notice to appear in court. Such citation and notice shall conform to the requirements of RCW 46.64.010, and in addition, shall include spaces for the name and address of the person arrested, the license number of the vehicle involved, the driver's license number of such person, if any, the offense or violation charged, and the time and place where such person shall appear in court((, and a place where the person arrested may sign)). Such spaces shall be filled with the appropriate information by the arresting officer. ((The arrested person, in order to secure release, and when permitted by the arresting officer, must give his or her written promise to appear in court as required by the citation and notice by signing in the appropriate place the written or electronic citation and notice served by the arresting officer, and if the arrested person is a nonresident of the state, shall also post a bond, cash security, or bail as required under RCW 46.64.035.)) An officer may not serve or issue any traffic citation or notice for any offense or violation except either when the offense or violation is committed in his or her presence or when a person may be arrested pursuant to RCW 10.31.100, as now or hereafter amended. The detention arising from an arrest under this section may not be for a period of time longer than is reasonably necessary to issue and serve a citation and notice, except that the time limitation does not apply under any of the following circumstances:

(1) ((Where the arrested person refuses to sign a written promise to appear in court as required by the citation and notice provisions of this section;

(2)) Where the arresting officer has probable cause to believe that the arrested person has committed any of the offenses enumerated in RCW 10.31.100(3)((, as now or hereafter amended));

(((3))) (2) When the arrested person is a nonresident and is being detained for a hearing under RCW 46.64.035.

Sec. 4. RCW 46.64.025 and 1999 c 86 s 7 are each amended to read as follows:

Whenever any person ((violates his or her written promise to appear in court, or)) served with a traffic citation willfully fails to appear for a scheduled court hearing, the court in which the defendant failed to appear shall promptly give notice of such fact to the department of licensing. Whenever thereafter the case in which the defendant failed to appear is adjudicated, the court hearing the case shall promptly file with the department a certificate showing that the case has been adjudicated.

Sec. 5. RCW 7.80.070 and 1987 c 456 s 15 are each amended to read as follows:

(1) A notice of civil infraction represents a determination that a civil infraction has been committed. The determination is final unless contested as provided in this chapter.

(2) The form for the notice of civil infraction shall be prescribed by rule of the supreme court and shall include the following:

(a) A statement that the notice represents a determination that a civil infraction has been committed by the person named in the notice and that the determination is final unless contested as provided in this chapter;

(b) A statement that a civil infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction;

(c) A statement of the specific civil infraction for which the notice was issued;

(d) A statement of the monetary penalty established for the civil infraction;

(e) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

(f) A statement that at any hearing to contest the determination the state has the burden of proving, by a preponderance of the evidence, that the civil infraction was committed and that the person may subpoena witnesses including the enforcement officer who issued the notice of civil infraction;

(g) A statement that at any hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of the civil infraction, the person will be deemed to have committed the civil infraction and may not subpoena witnesses;

(h) A statement that the person must respond to the notice as provided in this chapter within fifteen days;

(i) A statement that failure to respond to the notice or a failure to appear at a hearing requested for the purpose of contesting the determination or for the purpose of explaining mitigating circumstances will result in a default judgment against the person in the amount of the penalty and that this failure may be referred to the prosecuting attorney for criminal prosecution for failure to respond or appear;

(j) ((A statement, which the person shall sign, that the person promises to respond to the notice of civil infraction in one of the ways provided in this chapter;

(k))) A statement that failure to respond to a notice of civil infraction ((as promised)) or to appear at a requested hearing is a misdemeanor and may be punished by a fine or imprisonment in jail.

Sec. 6. RCW 7.80.160 and 2002 c 175 s 2 are each amended to read as follows:

(1) ((A person who fails to sign a notice of civil infraction is guilty of a misdemeanor.

(2))) Any person ((willfully violating his or her written and signed promise to appear in court or his or her written and signed promise to respond to a notice of civil infraction)) who, after receiving a statement of the options provided in this chapter for responding to the notice of civil infraction and the procedures necessary to exercise these options, fails to exercise

one of the options in a timely manner is guilty of a misdemeanor regardless of the disposition of the notice of civil infraction. A ((~~written promise to appear in court or a written promise to respond to a~~)) notice of civil infraction may be complied with by an appearance by counsel.

(((~~(3)~~))) (2) A person who willfully fails to pay a monetary penalty or to perform community restitution as required by a court under this chapter may be found in contempt of court as provided in chapter 7.21 RCW.

Sec. 7. RCW 7.84.050 and 1987 c 380 s 5 are each amended to read as follows:

(1) A notice of infraction represents a determination that an infraction has been committed. The determination shall be final unless contested as provided in this chapter.

(2) The form for the notice of infraction shall be prescribed by rule of the supreme court and shall include the following:

(a) A statement that the notice represents a determination that an infraction has been committed by the person named in the notice and that the determination shall be final unless contested as provided in this chapter;

(b) A statement that an infraction is a noncriminal offense for which imprisonment will not be imposed as a sanction;

(c) A statement of the specific infraction for which the notice was issued;

(d) A statement of the monetary penalty established for the infraction;

(e) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

(f) A statement that at any hearing to contest the determination, the state has the burden of proving, by a preponderance of the evidence, that the infraction was committed; and that the person may subpoena witnesses including the officer who issued the notice of infraction;

(g) A statement that at any hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of the infraction the person shall be deemed to have committed the infraction and shall not subpoena witnesses;

(h) A statement that failure to respond to a notice of infraction within fifteen days is a misdemeanor and may be punished by fine or imprisonment; and

(i) A statement that failure to appear at a hearing requested for the purpose of contesting the determination or for the purpose of explaining mitigating circumstances is a misdemeanor and may be punished by fine or imprisonment((~~; and~~

~~(j) A statement, which the person shall sign, that the person promises to respond to the notice of infraction in one of the ways provided in this chapter~~)).

Sec. 8. RCW 18.27.240 and 1986 c 197 s 4 are each amended to read as follows:

The form of the notice of infraction issued under this chapter shall include the following:

(1) A statement that the notice represents a determination that the infraction has been committed by the contractor named in the notice and that the determination shall be final unless contested as provided in this chapter;

(2) A statement that the infraction is a noncriminal offense for which imprisonment shall not be imposed as a sanction;

(3) A statement of the specific violation which necessitated issuance of the infraction;

(4) A statement of penalty involved if the infraction is established;

(5) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

(6) A statement that at any hearing to contest the notice of infraction the state has the burden of proving, by a preponderance of the evidence, that the infraction was committed; and that the contractor may subpoena witnesses, including the compliance inspector of the department who issued and served the notice of infraction;

(7) A statement((~~, which the person who has been served with the notice of infraction shall sign,~~)) that the contractor ((~~promises to~~)) must respond to the notice of infraction in one of the ways provided in this chapter; and

(8) ((~~A statement that refusal to sign the infraction as directed in subsection (7) of this section is a misdemeanor and may be punished by a fine or imprisonment in jail; and~~

~~(9)~~)) A statement that a contractor's failure to ((~~respond to a notice of infraction as promised~~)) timely select one of the options for responding to the notice of infraction after receiving a statement of the options provided in this chapter for responding to the notice of infraction and the procedures necessary to exercise these options isguilty of a misdemeanor and may be punished by a fine or imprisonment in jail.

Sec. 9. RCW 18.106.190 and 1994 c 174 s 4 are each amended to read as follows:

The form of the notice of infraction issued under this chapter shall include the following:

(1) A statement that the notice represents a determination that the infraction has been committed by the person named in the notice and that the determination shall be final unless contested as provided in this chapter;

(2) A statement that the infraction is a noncriminal offense for which imprisonment shall not be imposed as a sanction;

(3) A statement of the specific infraction for which the notice was issued;

(4) A statement of the monetary penalty that has been established for the infraction;

(5) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

(6) A statement that at any hearing to contest the determination the state has the burden of proving, by a preponderance of the evidence, that the infraction was committed; and that the person may subpoena witnesses, including the authorized representative of the department who issued and served the notice of infraction; and

(7) A statement((~~, which the person shall sign,~~)) that the person ((~~promises to~~)) must respond to the notice of infraction in one of the ways provided in this chapter((~~,~~)).

(((~~(8) A statement that refusal to sign the infraction as directed in subsection (7) of this section is a misdemeanor; and~~

~~(9)~~)) A statement that failure to ((~~respond to a notice of infraction as promised~~)) timely select one of the options for responding to the notice of civil infraction after receiving a statement of the options provided in this chapter for responding to the notice of infraction and the procedures necessary to exercise these options is a misdemeanor and may be punished by a fine or imprisonment in jail.

Sec. 10. RCW 20.01.482 and 2004 c 43 s 3 are each amended to read as follows:

(1) The director shall have the authority to issue a notice of civil infraction if an infraction is committed in his or her presence or, if after investigation, the director has reasonable cause to believe an infraction has been committed.

(2) It is a misdemeanor for any person to refuse to properly identify himself or herself for the purpose of issuance of a notice of infraction ((~~or to refuse to sign the written or electronic promise to appear or respond to a notice of infraction~~)).

(3) Any person willfully ((~~violating a written or electronic and signed promise~~)) failing to respond to a notice of infraction is guilty of a misdemeanor regardless of the disposition of the notice of infraction.

Sec. 11. RCW 43.63B.140 and 1994 c 284 s 26 are each amended to read as follows:

(1) The department shall prescribe the form of the notice of infraction issued under this chapter.

(2) The notice of infraction shall include the following:

(a) A statement that the notice represents a determination that the infraction has been committed by the person named in the notice and that the determination is final unless contested as provided in this chapter;

(b) A statement that the infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction;

(c) A statement of the specific infraction for which the notice was issued;

(d) A statement of a monetary penalty that has been established for the infraction;

(e) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

(f) A statement that, at a hearing to contest the determination, the state has the burden of proving, by a preponderance of the evidence, that the infraction was committed, and that the person may subpoena witnesses including the authorized representative who issued and served the notice of the infraction; and

(g) ((~~A statement, that the person shall sign, that the person promises to respond to the notice of infraction in one of the ways provided in this chapter;~~

~~(h) A statement that refusal to sign the infraction as directed in (g) of this subsection is a misdemeanor; and~~

~~(i)~~)) A statement that failure to respond to a notice of infraction ((~~as promised~~)) is a misdemeanor and may be punished by a fine or imprisonment in jail.

Sec. 12. RCW 81.112.230 and 1999 c 20 s 5 are each amended to read as follows:

Nothing in RCW 81.112.020 and 81.112.210 through 81.112.230 shall be deemed to prevent law enforcement authorities from prosecuting for theft, trespass, or other charges by any individual who:

(1) Fails to pay the required fare on more than one occasion within a twelve-month period;

(2) Fails to ((~~sign a notice of civil infraction~~)) timely select one of the options for responding to the notice of civil infraction after receiving a statement of the options provided in this chapter for responding to the notice of infraction and the procedures necessary to exercise these options; or

(3) Fails to depart the train, including but not limited to commuter trains and light rail trains, when requested to do so by a person designated to monitor fare payment.

NEW SECTION. **Sec. 13.** RCW 18.27.280 (Notice--Penalty for person refusing to promise to respond) and 1983 1st ex.s. c 2 s 10 are each repealed."

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

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senators Kline and Johnson to Substitute House Bill No. 1650.

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

MOTION

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

On page 1, line 1 of the title, after "infractions;" strike the remainder of the title and insert "amending RCW 46.61.021, 46.63.060, 46.64.015, 46.64.025, 7.80.070, 7.80.160, 7.84.050, 18.27.240, 18.106.190, 20.01.482, 43.63B.140, and 81.112.230; repealing RCW 18.27.280; and prescribing penalties."

MOTION

On motion of Senator Brandland, the rules were suspended, Substitute House Bill No. 1650 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 1650 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1650 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Doumit - 1

SUBSTITUTE HOUSE BILL NO. 1650 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2812, by House Committee on Appropriations (originally sponsored by Representatives Hunter, Rodne, Quall, Nixon, P. Sullivan, Jarrett, Clibborn, Tom, Morrell, Fromhold, Roberts, Schual-Berke, Simpson, Anderson and Kagi)

Modifying school district levy provisions. Revised for 1st Substitute: Increasing the levy base for school districts.

The measure was read the second time.

MOTION

Senator Schoesler moved that the following amendment by Senators Schoesler and Morton be adopted.

On page 1, after line 3, insert the following:"**Sec. 14.** RCW 28A.500.030 and 2005 c 518 s 914 are each amended to read as follows:

Allocation of state matching funds to eligible districts for local effort assistance shall be determined as follows:

(1) Funds raised by the district through maintenance and operation levies shall be matched with state funds using the following ratio of state funds to levy funds:

(a) The difference between the district's twelve percent levy rate and the statewide average twelve percent levy rate; to

(b) The statewide average twelve percent levy rate.

(2) The maximum amount of state matching funds for districts eligible for local effort assistance shall be the district's twelve percent levy amount, multiplied by the following percentage:

(a) The difference between the district's twelve percent levy rate and the statewide average twelve percent levy rate; divided by

(b) The district's twelve percent levy rate.

(3) Calendar year 2003 allocations and maximum eligibility under this chapter shall be multiplied by 0.99.

(4) From January 1, 2004, to December 31, 2005, allocations and maximum eligibility under this chapter shall be multiplied by 0.937.

(5) From January 1, 2006, to ((~~June 30, 2007~~)) December 31, 2006, allocations and maximum eligibility under this chapter shall be multiplied by 0.9563. Beginning with calendar year 2007, allocations and maximum elgibility under this chapter shall be fully funded at one hundred percent and shall not be reduced."

Renumber the sections consecutively and correct any internal references accordingly.

Senators Schoesler and Weinstein spoke in favor of adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators Schoesler and Morton on page 1, line 3 to Substitute House Bill No. 2812.

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

MOTION

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

On page 1, line 1 of the title, after "RCW" insert "28A.500.030 and"

MOTION

On motion of Senator Weinstein, the rules were suspended, Substitute House Bill No. 2812 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Weinstein, Esser, Rockefeller and Schmidt spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2812 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2812 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Doumit - 1

SUBSTITUTE HOUSE BILL NO. 2812 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Schoesler, Senator Parlette was excused.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2848, by House Committee on Judiciary (originally sponsored by Representatives Lantz, Ericks, Santos, Williams, Rodne, Priest, Hudgins, Darneille, Morrell, Kessler, McDonald, Roberts, McCoy, Kenney, Campbell, P. Sullivan, Wallace, Hasegawa, Kilmer, Green, Simpson, Wood, Ormsby and Springer)

Protecting confidentiality of domestic violence information.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, Engrossed Substitute House Bill No. 2848 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2848.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2848 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Absent: Senator Deccio - 1

Excused: Senator Parlette - 1

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2848, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2974, by House Committee on Health Care (originally sponsored by Representatives Cody, Morrell and Moeller)

Modifying provisions with respect to disciplining health professions.

The measure was read the second time.

MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Health & Long-Term Care be adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 18.130.060 and 2001 c 101 s 1 are each amended to read as follows:

In addition to the authority specified in RCW 18.130.050, the secretary has the following additional authority:

(1) To employ such investigative, administrative, and clerical staff as necessary for the enforcement of this chapter;

(2) Upon the request of a board, to appoint pro tem members to participate as members of a panel of the board in connection with proceedings specifically identified in the request. Individuals so appointed must meet the same minimum qualifications as regular members of the board. Pro tem members appointed for matters under this chapter are appointed for a term of no more than one year. No pro tem member may serve more than four one-year terms. While serving as board members pro tem, persons so appointed have all the powers, duties, and immunities, and are entitled to the emoluments, including travel expenses in accordance with RCW 43.03.050 and 43.03.060, of regular members of the board. The chairperson of a panel shall be a regular member of the board appointed by the board chairperson. Panels have authority to

act as directed by the board with respect to all matters concerning the review, investigation, and adjudication of all complaints, allegations, charges, and matters subject to the jurisdiction of the board. The authority to act through panels does not restrict the authority of the board to act as a single body at any phase of proceedings within the board's jurisdiction. Board panels may make interim orders and issue final decisions with respect to matters and cases delegated to the panel by the board. Final decisions may be appealed as provided in chapter 34.05 RCW, the administrative procedure act;

(3) To establish fees to be paid for witnesses, expert witnesses, and consultants used in any investigation and to establish fees to witnesses in any agency adjudicative proceeding as authorized by RCW 34.05.446;

(4) To conduct investigations and practice reviews at the direction of the disciplining authority and to issue subpoenas, administer oaths, and take depositions in the course of conducting those investigations and practice reviews at the direction of the disciplining authority;

(5) To have the health professions regulatory program establish a system to recruit potential public members, to review the qualifications of such potential members, and to provide orientation to those public members appointed pursuant to law by the governor or the secretary to the boards and commissions specified in RCW 18.130.040(2)(b), and to the advisory committees and councils for professions specified in RCW 18.130.040(2)(a); and

(6) To adopt rules, in consultation with the disciplining authorities, requiring every license holder to report information identified in RCW 18.130.070.

Sec. 2. RCW 18.130.070 and 2005 c 470 s 2 are each amended to read as follows:

(1)(a) The ((~~disciplining authority may~~)) secretary shall adopt rules requiring ((~~any person, including, but not limited to, licensees, corporations, organizations, health care facilities, impaired practitioner programs, or voluntary substance abuse monitoring programs approved by the disciplining authority and state or local governmental agencies,~~)) every license holder to report to the appropriate disciplining authority any conviction, determination, or finding that ((~~a~~)) another license holder has committed an act which constitutes unprofessional conduct, or to report information to the disciplining authority, an impaired practitioner program, or voluntary substance abuse monitoring program approved by the disciplining authority, which indicates that the other license holder may not be able to practice his or her profession with reasonable skill and safety to consumers as a result of a mental or physical condition.

(b) The secretary may adopt rules to require other persons, including corporations, organizations, health care facilities, impaired practitioner programs, or voluntary substance abuse monitoring programs approved by a disciplining authority, and state or local government agencies to report:

(i) Any conviction, determination, or finding that a license holder has committed an act which constitutes unprofessional conduct; or

(ii) Information to the disciplining authority, an impaired practitioner program, or voluntary substance abuse monitoring program approved by the disciplining authority, which indicates that the license holder may not be able to practice his or her profession with reasonable skill and safety to consumers as a result of a mental or physical condition.

(c) If a report has been made by a hospital to the department pursuant to RCW 70.41.210, a report to the disciplining authority is not required. To facilitate meeting the intent of this section, the cooperation of agencies of the federal government is requested by reporting any conviction, determination, or finding that a federal employee or contractor regulated by the disciplining authorities enumerated in this chapter has committed an act which constituted unprofessional conduct and reporting any information which indicates that a federal employee or contractor regulated by the disciplining authorities enumerated in this chapter may not be able to practice his or her profession with reasonable skill and safety as a result of a mental or physical condition.

(d) Reporting under this section is not required by:

(i) Any entity with a peer review committee, quality improvement committee or other similarly designated professional review committee, or by a license holder who is a member of such committee, during the investigative phase of the respective committee's operations if the investigation is completed in a timely manner; or

(ii) An impaired practitioner program or voluntary substance abuse monitoring program approved by a disciplining authority under RCW 18.130.175 if the license holder is currently enrolled in the treatment program, so long as the license holder actively participates in the treatment program and the license holder's impairment does not constitute a clear and present danger to the public health, safety, or welfare.

(2) If a person fails to furnish a required report, the disciplining authority may petition the superior court of the county in which the person resides or is found, and the court shall issue to the person an order to furnish the required report. A failure to obey the order is a contempt of court as provided in chapter 7.21 RCW.

(3) A person is immune from civil liability, whether direct or derivative, for providing information to the disciplining authority pursuant to the rules adopted under subsection (1) of this section.

(4)(a) The holder of a license subject to the jurisdiction of this chapter shall report to the disciplining authority:

(i) Any conviction, determination, or finding that ((~~the licensee~~)) he or she has committed unprofessional conduct or is unable to practice with reasonable skill or safety; and

(ii) Any disqualification from participation in the federal medicare program, under Title XVIII of the federal social security act or the federal medicaid program, under Title XIX of the federal social security act.

(b) Failure to report within thirty days of notice of the conviction, determination, ((~~or~~)) finding, or disqualification constitutes grounds for disciplinary action.

NEW SECTION. **Sec. 3.** A new section is added to chapter 18.130 RCW to read as follows:

Any individual who applies for a license or temporary practice permit or holds a license or temporary practice permit and is prohibited from practicing a health care profession in another state because of an act of unprofessional conduct that is substantially equivalent to an act of unprofessional conduct prohibited by this chapter or any of the chapters specified in RCW 18.130.040 is prohibited from practicing a health care profession in this state until proceedings of the appropriate disciplining authority have been completed under RCW 18.130.050.

Sec. 4. RCW 18.130.050 and 1995 c 336 s 4 are each amended to read as follows:

The disciplining authority has the following authority:

(1) To adopt, amend, and rescind such rules as are deemed necessary to carry out this chapter;

(2) To investigate all complaints or reports of unprofessional conduct as defined in this chapter and to hold hearings as provided in this chapter;

(3) To issue subpoenas and administer oaths in connection with any investigation, hearing, or proceeding held under this chapter;

(4) To take or cause depositions to be taken and use other discovery procedures as needed in any investigation, hearing, or proceeding held under this chapter;

(5) To compel attendance of witnesses at hearings;

(6) In the course of investigating a complaint or report of unprofessional conduct, to conduct practice reviews;

(7) To take emergency action ordering summary suspension of a license, or restriction or limitation of the ((~~licensee's~~)) license holder's practice pending proceedings by the disciplining authority. Consistent with section 3 of this act, a disciplining authority shall issue a summary suspension of the license or temporary practice permit of a license holder prohibited from practicing a health care profession in another state, federal, or foreign jurisdiction because of an act of unprofessional conduct that is substantially equivalent to an act of unprofessional conduct prohibited by this chapter or any of the chapters specified in RCW 18.130.040. The summary suspension remains in effect until proceedings by the Washington disciplining authority have been completed;

(8) To use a presiding officer as authorized in RCW 18.130.095(3) or the office of administrative hearings as authorized in chapter 34.12 RCW to conduct hearings. The disciplining authority shall make the final decision regarding disposition of the license unless the disciplining authority elects to delegate in writing the final decision to the presiding officer;

(9) To use individual members of the boards to direct investigations. However, the member of the board shall not subsequently participate in the hearing of the case;

(10) To enter into contracts for professional services determined to be necessary for adequate enforcement of this chapter;

(11) To contract with licensees or other persons or organizations to provide services necessary for the monitoring and supervision of licensees who are placed on probation, whose professional activities are restricted, or who are for any authorized purpose subject to monitoring by the disciplining authority;

(12) To adopt standards of professional conduct or practice;

(13) To grant or deny license applications, and in the event of a finding of unprofessional conduct by an applicant or license holder, to impose any sanction against a license applicant or license holder provided by this chapter;

(14) To designate individuals authorized to sign subpoenas and statements of charges;

(15) To establish panels consisting of three or more members of the board to perform any duty or authority within the board's jurisdiction under this chapter;

(16) To review and audit the records of licensed health facilities' or services' quality assurance committee decisions in which a licensee's practice privilege or employment is terminated or restricted. Each health facility or service shall produce and make accessible to the disciplining authority the appropriate records and otherwise facilitate the review and audit. Information so gained shall not be subject to discovery or introduction into evidence in any civil action pursuant to RCW 70.41.200(3).

Sec. 5. RCW 18.130.080 and 1998 c 132 s 9 are each amended to read as follows:

(1) A person, including but not limited to consumers, licensees, corporations, organizations, health care facilities, impaired practitioner programs, or voluntary substance abuse monitoring programs approved by disciplining authorities, and state and local governmental agencies, may submit a written complaint to the disciplining authority charging a license holder or applicant with unprofessional conduct and specifying the grounds therefor or to report information to the disciplining authority, or voluntary substance abuse monitoring program, or an impaired practitioner program approved by the disciplining authority, which indicates that the license holder may not be able to practice his or her profession with reasonable skill and safety to consumers as a result of a mental or physical condition. If the disciplining authority determines that the complaint merits investigation, or if the disciplining authority has reason to believe, without a formal complaint, that a license holder or applicant may have engaged in unprofessional conduct, the disciplining authority shall investigate to determine whether there has been unprofessional conduct. In determining whether or not to investigate, the disciplining authority shall consider any prior complaints received by the disciplining authority, any prior findings of fact under RCW 18.130.110, any stipulations to informal disposition under RCW 18.130.172, and any comparable action taken by other state disciplining authorities.

(2) Notwithstanding subsection (1) of this section, the disciplining authority shall initiate an investigation in every instance where the disciplining authority receives information that a health care provider has been disqualified from participating in the federal medicare program, under Title XVIII of the federal social security act, or the federal medicaid program, under Title XIX of the federal social security act.

(3) A person who files a complaint or reports information under this section in good faith is immune from suit in any civil action related to the filing or contents of the complaint.

Sec. 6. RCW 18.130.160 and 2001 c 195 s 1 are each amended to read as follows:

Upon a finding, after hearing, that a license holder or applicant has committed unprofessional conduct or is unable to practice with reasonable skill and safety due to a physical or mental condition, the disciplining authority may issue an order providing for one or any combination of the following:

(1) Revocation of the license;

(2) Suspension of the license for a fixed or indefinite term;

(3) Restriction or limitation of the practice;

(4) Requiring the satisfactory completion of a specific program of remedial education or treatment;

(5) The monitoring of the practice by a supervisor approved by the disciplining authority;

(6) Censure or reprimand;

(7) Compliance with conditions of probation for a designated period of time;

(8) Payment of a fine for each violation of this chapter, not to exceed five thousand dollars per violation. Funds received shall be placed in the health professions account;

(9) Denial of the license request;

(10) Corrective action;

(11) Refund of fees billed to and collected from the consumer;

(12) A surrender of the practitioner's license in lieu of other sanctions, which must be reported to the federal data bank.

Any of the actions under this section may be totally or partly stayed by the disciplining authority. Safeguarding the public's health and safety is the paramount responsibility of every disciplining authority and in determining what action is appropriate, the disciplining authority must first consider what sanctions are necessary to protect or compensate the public. Only after such provisions have been made may the disciplining authority consider and include in the order requirements designed to rehabilitate the license holder or applicant. All

costs associated with compliance with orders issued under this section are the obligation of the license holder or applicant.

The licensee or applicant may enter into a stipulated disposition of charges that includes one or more of the sanctions of this section, but only after a statement of charges has been issued and the licensee has been afforded the opportunity for a hearing and has elected on the record to forego such a hearing. The stipulation shall either contain one or more specific findings of unprofessional conduct or inability to practice, or a statement by the licensee acknowledging that evidence is sufficient to justify one or more specified findings of unprofessional conduct or inability to practice. The stipulation entered into pursuant to this subsection shall be considered formal disciplinary action for all purposes.

Sec. 7. RCW 18.130.175 and 2005 c 274 s 233 are each amended to read as follows:

(1) In lieu of disciplinary action under RCW 18.130.160 and if the disciplining authority determines that the unprofessional conduct may be the result of substance abuse, the disciplining authority may refer the license holder to a voluntary substance abuse monitoring program approved by the disciplining authority.

The cost of the treatment shall be the responsibility of the license holder, but the responsibility does not preclude payment by an employer, existing insurance coverage, or other sources. Primary alcoholism or other drug addiction treatment shall be provided by approved treatment programs under RCW 70.96A.020 or by any other provider approved by the entity or the commission. However, nothing shall prohibit the disciplining authority from approving additional services and programs as an adjunct to primary alcoholism or other drug addiction treatment. The disciplining authority may also approve the use of out-of-state programs. Referral of the license holder to the program shall be done only with the consent of the license holder. Referral to the program may also include probationary conditions for a designated period of time. If the license holder does not consent to be referred to the program or does not successfully complete the program, the disciplining authority may take appropriate action under RCW 18.130.160 which includes suspension of the license unless or until the disciplining authority, in consultation with the director of the voluntary substance abuse monitoring program, determines the license holder is able to practice safely. The secretary shall adopt uniform rules for the evaluation by the disciplinary authority of a relapse or program violation on the part of a license holder in the substance abuse monitoring program. The evaluation shall encourage program participation with additional conditions, in lieu of disciplinary action, when the disciplinary authority determines that the license holder is able to continue to practice with reasonable skill and safety.

(2) In addition to approving substance abuse monitoring programs that may receive referrals from the disciplining authority, the disciplining authority may establish by rule requirements for participation of license holders who are not being investigated or monitored by the disciplining authority for substance abuse. License holders voluntarily participating in the approved programs without being referred by the disciplining authority shall not be subject to disciplinary action under RCW 18.130.160 for their substance abuse, and shall not have their participation made known to the disciplining authority, if they meet the requirements of this section and the program in which they are participating.

(3) The license holder shall sign a waiver allowing the program to release information to the disciplining authority if the licensee does not comply with the requirements of this section or is unable to practice with reasonable skill or safety. The substance abuse program shall report to the disciplining authority any license holder who fails to comply with the requirements of this section or the program or who, in the opinion of the program, is unable to practice with reasonable skill or safety. License holders shall report to the disciplining authority if they fail to comply with this section or do not complete the program's requirements. License holders may, upon the agreement of the program and disciplining authority, reenter the program if they have previously failed to comply with this section.

(4) The treatment and pretreatment records of license holders referred to or voluntarily participating in approved programs shall be confidential, shall be exempt from chapter 42.56 RCW, and shall not be subject to discovery by subpoena or admissible as evidence except for monitoring records reported to the disciplining authority for cause as defined in subsection (3) of this section. Monitoring records relating to license holders referred to the program by the disciplining authority or relating to license holders reported to the disciplining authority by the program for cause, shall be released to the disciplining authority at the request of the disciplining authority. Records held by the disciplining authority under this section shall be exempt from chapter 42.56 RCW and shall not be subject to discovery by subpoena except by the license holder.

(5) "Substance abuse," as used in this section, means the impairment, as determined by the disciplining authority, of a license holder's professional services by an addiction to, a dependency on, or the use of alcohol, legend drugs, or controlled substances.

(6) This section does not affect an employer's right or ability to make employment-related decisions regarding a license holder. This section does not restrict the authority of the disciplining authority to take disciplinary action for any other unprofessional conduct.

(7) A person who, in good faith, reports information or takes action in connection with this section is immune from civil liability for reporting information or taking the action.

(a) The immunity from civil liability provided by this section shall be liberally construed to accomplish the purposes of this section and the persons entitled to immunity shall include:

(i) An approved monitoring treatment program;

(ii) The professional association operating the program;

(iii) Members, employees, or agents of the program or association;

(iv) Persons reporting a license holder as being possibly impaired or providing information about the license holder's impairment; and

(v) Professionals supervising or monitoring the course of the impaired license holder's treatment or rehabilitation.

(b) The courts are strongly encouraged to impose sanctions on clients and their attorneys whose allegations under this subsection are not made in good faith and are without either reasonable objective, substantive grounds, or both.

(c) The immunity provided in this section is in addition to any other immunity provided by law.

NEW SECTION. **Sec. 8.** A new section is added to chapter 43.43 RCW to read as follows:

(1) Upon a guilty plea or conviction of a person for any felony crime involving homicide under chapter 9A.32 RCW, assault under chapter 9A.36 RCW, kidnapping under chapter 9A.40 RCW, or sex offenses under chapter 9A.44 RCW, the

prosecuting attorney shall notify the state patrol of such guilty pleas or convictions.

(2) When the state patrol receives information that a person has pled guilty to or been convicted of one of the felony crimes under subsection (1) of this section, the state patrol shall transmit that information to the department of health. It is the duty of the department of health to identify whether the person holds a credential issued by a disciplining authority listed under RCW 18.130.040, and provide this information to the disciplining authority that issued the credential to the person who pled guilty or was convicted of a crime listed in subsection (1) of this section.

NEW SECTION. **Sec. 9.** A new section is added to chapter 18.130 RCW to read as follows:

(1) When developing its biennial budget request for appropriation of the health professions account created in RCW 43.70.320, beginning in the 2007-2009 budget and continuing in subsequent biennia, the department shall specify the number of full-time employees designated as investigators and attorneys and the costs associated with supporting their activities. The department shall also specify the additional full-time employees designated as investigators and attorneys that are required to achieve a staffing level that is able to respond promptly, competently, and appropriately to the workload associated with health professions disciplinary activities and the costs associated with supporting disciplinary activities. In identifying the need for additional staff, the department shall develop a formula based on its prior experience with staff levels compared to the number of providers, complaints, investigations, and other criteria that the department determines is relevant to staffing level decisions. The department must request additional funds for activities that most critically impact public health and safety. The budget request must specify the methodology used for each biennium.

(2) The joint legislative audit and review committee, in consultation with the department, shall report to the legislature by December 1, 2010, with recommendations for formulas for determining appropriate staffing levels for investigators and attorneys at the department of health involved in the health professions disciplinary process to achieve prompt, competent, and appropriate responses to complaints of unprofessional conduct. The report must be based upon the department's prior experience with staff levels compared to the number of providers, complaints, investigations, and other criteria that the department finds are relevant to determining appropriate staffing levels.

(3) This section expires July 1, 2011.

NEW SECTION. **Sec. 10.** The following acts or parts of acts are each repealed:

(1) RCW 18.57.174 (Duty to report unprofessional conduct--Exceptions) and 2000 c 171 s 20 & 1986 c 300 s 9; and

(2) RCW 18.71.0193 (Duty to report unprofessional conduct--Exceptions) and 1994 sp.s. c 9 s 327 & 1986 c 300 s 5.

NEW SECTION. **Sec. 11.** Section 7 of this act takes effect July 1, 2006."

Senators Keiser and Deccio spoke in favor of adoption of the committee striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care to Substitute House Bill No. 2974.

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

MOTION

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

On page 1, line 1 of the title, after "discipline;" strike the remainder of the title and insert "amending RCW 18.130.060, 18.130.070, 18.130.050, 18.130.080, 18.130.160, and 18.130.175; adding new sections to chapter 18.130 RCW; adding a new section to chapter 43.43 RCW; repealing RCW 18.57.174 and 18.71.0193; providing an effective date; and providing an expiration date."

MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 2974 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Deccio spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2974 as amended by the Senate

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2974 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 1; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Voting nay: Senators Honeyford, McCaslin and Morton - 3

Absent: Senator Hewitt - 1

SUBSTITUTE HOUSE BILL NO. 2974 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED HOUSE BILL NO. 3310, by Representatives Bailey, Linville, Kessler, Morrell, Clibborn and Morris

Reviewing existing health care coverage statutory requirements.

The measure was read the second time.

MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Health & Long-Term Care be adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 48.20 RCW to read as follows:

Any disability insurance contract that provides coverage for a subscriber's dependent must offer the option of covering his or her unmarried dependent: (1) Under the age of twenty-five; or (2) under the age of thirty and a veteran, as defined in RCW

41.04.007, regardless of whether the dependent is enrolled in an educational institution.

NEW SECTION. **Sec. 2.** A new section is added to chapter 48.21 RCW to read as follows:

Any group disability insurance contract or blanket disability insurance contract that provides coverage for a participating member's dependent must offer each participating member the option of covering his or her unmarried dependent: (1) Under the age of twenty-five; or (2) under the age of thirty and a veteran, as defined in RCW 41.04.007, regardless of whether the dependent is enrolled in an educational institution.

NEW SECTION. **Sec. 3.** A new section is added to chapter 48.44 RCW to read as follows:

(1) Any individual health care service plan contract that provides coverage for a subscriber's dependent must offer the option of covering his or her unmarried dependent: (a) Under the age of twenty-five; or (b) under the age of thirty and a veteran, as defined in RCW 41.04.007, regardless of whether the dependent is enrolled in an educational institution.

(2) Any group health care service plan contract that provides coverage for a participating member's dependent must offer each participating member the option of covering his or her unmarried dependent: (a) Under the age of twenty-five; or (b) under the age of thirty and a veteran, as defined in RCW 41.04.007, regardless of whether the dependent is enrolled in an educational institution.

NEW SECTION. **Sec. 4.** A new section is added to chapter 48.46 RCW to read as follows:

(1) Any individual health maintenance agreement that provides coverage for a subscriber's dependent must offer the option of covering his or her unmarried dependent: (a) Under the age of twenty-five; or (b) under the age of thirty and a veteran, as defined in RCW 41.04.007, regardless of whether the dependent is enrolled in an educational institution.

(2) Any group health maintenance agreement that provides coverage for a participating member's dependent must offer each participating member the option of covering his or her unmarried dependent: (a) Under the age of twenty-five; or (b) under the age of thirty and a veteran, as defined in RCW 41.04.007, regardless of whether the dependent is enrolled in an educational institution.

NEW SECTION. **Sec. 5.** By December 1, 2006, the insurance commissioner, shall provide a report to the legislature to include:

(1) A listing of all coverage, service, administrative, and provider requirements of all health carriers doing business in the state of Washington. The requirements for both individual and group markets should be listed. Requirements should include both statutory and regulatory requirements;

(2) A listing of those coverage, service, administrative, and provider requirements in the individual and group market that are not requirements in at least twenty-six other states;

(3) An assessment of whether market demand has already resulted in inclusion of a majority of these mandates or requirements in a significant number of health benefit plans in states that do not have the same requirements; and

(4) A listing of all health carriers doing business in the small group market in Washington state and the number of plans available compared to the number of carriers and plans available in other states.

NEW SECTION. **Sec. 6.** Sections 1 through 4 of this act take effect January 1, 2007."

MOTION

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

On page 1, line 14 after "contract" insert ", except those entered into under RCW 41.05.075,"

On page 2, line 1 after "contract" insert ", except those entered into under RCW 41.05.075,"

On page 2, line 15 after "agreement" insert ", except those entered into under RCW 41.05.075,"

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

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator Keiser on page 1, line 14 to the committee striking amendment to Engrossed House Bill No. 3310.

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

MOTION

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

On page 2, line 27, strike ";" and insert ". The report shall include an assessment of the cost of each listed requirement and the impact that covering the requirement has on the utilization of other health services, expressed as a net premium cost or savings per member per month.

(2) A listing of all statutory and regulatory requirements of all health carriers doing business in Washington that prohibit discrimination between health care provider groups who deliver services that are included in a health benefit plan. The report shall include an assessment of the cost of each listed requirement and the impact that covering the requirement has on the utilization of other health services, expressed as a net premium cost or savings per member per month."

Renumber the sections consecutively and correct any internal references accordingly.

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

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator Deccio on page 2, line 27 to the committee striking amendment to Engrossed House Bill No. 3310.

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

The President Pro Tempore declared the question before the Senate to be the adoption of the striking committee amendment by the Committee on Health & Long-Term Care as amended to Engrossed House Bill No. 3310.

Senators Keiser and Deccio spoke in favor of adoption of the committee striking amendment.

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

MOTION

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

On page 1, line 1 of the title, after "requirements;" strike the remainder of the title and insert "adding a new section to chapter 48.20 RCW; adding a new section to chapter 48.21 RCW; adding a new section to chapter 48.44 RCW; adding a new section to chapter 48.46 RCW; creating a new section; and providing an effective date."

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed House Bill No. 3310 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed House Bill No. 3310 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 3310 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 49

ENGROSSED HOUSE BILL NO. 3310, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The Senate resumed consideration of Substitute House Bill No. 2553 which had been deferred the previous day.

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

The President Pro Tempore declared the question before the Senate to be the adoption of the committee amendment by the Committee on Financial Institutions, Housing & Consumer Protection to Substitute House Bill No. 2553.

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

MOTION

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

On page 1, line 2 of the title, after "products;" strike the remainder of the title and insert "amending RCW 48.110.010, 48.110.015, 48.110.020, 48.110.030, 48.110.040, 48.110.050, 48.110.060, 48.110.070, 48.110.080, 48.110.090, 48.110.100, 48.110.110, 48.110.120, 48.110.130, 48.110.140, and 48.110.900; adding new sections to chapter 48.110 RCW; creating a new section; repealing RCW 48.96.005, 48.96.010, 48.96.020, 48.96.025, 48.96.030, 48.96.040, 48.96.045, 48.96.047, 48.96.050, 48.96.060, 48.96.900, and 48.96.901; prescribing penalties; and providing an effective date."

MOTION

On motion of Senator Fairley, the rules were suspended, Substitute House Bill No. 2553 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fairley, Benton and Delvin spoke in favor of passage of the bill.

MOTION

On motion of Senator Morton, Senator McCaslin was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2553 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2553 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator McCaslin - 1

SUBSTITUTE HOUSE BILL NO. 2553 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2465, by Representatives Lovick, Kessler, P. Sullivan, Haler and O'Brien

Modifying vehicle equipment standards related to original equipment installed.

The measure was read the second time.

MOTION

Senator Benson moved that the following committee striking amendment by the Committee on Transportation be adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.37.010 and 2005 c 213 s 7 are each amended to read as follows:

(1) It is a traffic infraction for any person to drive or move, or for ((~~the~~)) a vehicle owner to cause or knowingly permit to be driven or moved, on any highway any vehicle or combination of vehicles ((~~which~~)) that:

(a) Is in such unsafe condition as to endanger any person((~~, or which does not contain those parts or~~));

(b) Is not at all times equipped with such lamps and other equipment in proper working condition and adjustment as required ((~~in~~)) by this chapter or ((~~in regulations~~)) by rules issued by ((~~the chief of~~)) the Washington state patrol((~~, or which is equipped in any manner~~));

(c) Contains any parts in violation of this chapter or ((~~the state patrol's regulations, or~~)) rules issued by the Washington state patrol.

(2) It is a traffic infraction for any person to do any act forbidden or fail to perform any act required under this chapter or ((~~the state patrol's regulations~~)) rules issued by the Washington state patrol.

((~~(2)~~)) (3) Nothing contained in this chapter or the state patrol's regulations shall be construed to prohibit the use of

additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter or the state patrol's regulations.

((~~(3)~~)) (4) The provisions of the chapter and the state patrol's regulations with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers, or farm tractors except as herein made applicable.

((~~(4)~~)) (5) No owner or operator of a farm tractor, self-propelled unit of farm equipment, or implement of husbandry shall be guilty of a crime or subject to penalty for violation of RCW 46.37.160 as now or hereafter amended unless such violation occurs on a public highway.

((~~(5)~~)) (6) It is a traffic infraction for any person to sell or offer for sale vehicle equipment which is required to be approved by the state patrol as prescribed in RCW 46.37.005 unless it has been approved by the state patrol.

((~~(6)~~)) (7) The provisions of this chapter with respect to equipment required on vehicles shall not apply to motorcycles or motor-driven cycles except as herein made applicable.

((~~(7)~~)) (8) This chapter does not apply to off-road vehicles used on nonhighway roads.

((~~(8)~~)) (9) This chapter does not apply to vehicles used by the state parks and recreation commission exclusively for park maintenance and operations upon public highways within state parks.

((~~(9)~~)) (10) Notices of traffic infraction issued to commercial drivers under the provisions of this chapter with respect to equipment required on commercial motor vehicles shall not be considered for driver improvement purposes under chapter 46.20 RCW.

((~~(10)~~)) (11) Whenever a traffic infraction is chargeable to the owner or lessee of a vehicle under subsection (1) of this section, the driver shall not be arrested or issued a notice of traffic infraction unless the vehicle is registered in a jurisdiction other than Washington state, or unless the infraction is for an offense that is clearly within the responsibility of the driver.

((~~(11)~~)) (12) Whenever the owner or lessee is issued a notice of traffic infraction under this section the court may, on the request of the owner or lessee, take appropriate steps to make the driver of the vehicle, or any other person who directs the loading, maintenance, or operation of the vehicle, a codefendant. If the codefendant is held solely responsible and is found to have committed the traffic infraction, the court may dismiss the notice against the owner or lessee.

Sec. 2. RCW 46.37.070 and 1977 ex.s. c 355 s 7 are each amended to read as follows:

(1) After January 1, 1964, every motor vehicle, trailer, semitrailer, and pole trailer shall be equipped with two or more stop lamps meeting the requirements of RCW 46.37.200, except that passenger cars manufactured or assembled prior to January 1, 1964, shall be equipped with at least one such stop lamp. On a combination of vehicles, only the stop lamps on the rearmost vehicle need actually be seen from the distance specified in RCW 46.37.200(1).

(2) After January 1, 1960, every motor vehicle, trailer, semitrailer and pole trailer shall be equipped with electric turn signal lamps meeting the requirements of RCW 46.37.200(2), except that passenger cars, trailers, semitrailers, pole trailers, and trucks less than eighty inches in width, manufactured or assembled prior to January 1, 1953, need not be equipped with electric turn signal lamps.

(3) Every passenger car manufactured or assembled after September 1, 1985; and every passenger truck, passenger van, or passenger sports utility vehicle manufactured or assembled after September 1, 1993, must be equipped with a rear center high-mounted stop lamp meeting the requirements of RCW 46.37.200(3).

Sec. 3. RCW 46.37.200 and 1977 ex.s. c 355 s 17 are each amended to read as follows:

(1) Any vehicle may be equipped and when required under this chapter shall be equipped with a stop lamp or lamps on the rear of the vehicle which shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than one hundred feet and on any vehicle manufactured or assembled after January 1, 1964, three hundred feet to the rear in normal sunlight, and which shall be actuated upon application of a service brake, and which may but need not be incorporated with one or more other rear lamps.

(2) Any vehicle may be equipped and when required under RCW 46.37.070(2) shall be equipped with electric turn signals which shall indicate an intention to turn by flashing lights showing to the front and rear of a vehicle or on a combination of vehicles on the side of the vehicle or combination toward which the turn is to be made. The lamps showing to the front shall be mounted on the same level and as widely spaced laterally as practicable and, when signaling, shall emit amber light: PROVIDED, That on any vehicle manufactured prior to January 1, 1969, the lamps showing to the front may emit white or amber light, or any shade of light between white and amber. The lamp showing to the rear shall be mounted on the same level and as widely spaced laterally as practicable, and, when signaling, shall emit a red or amber light, or any shade of color between red and amber. Turn signal lamps shall be visible from a distance of not less than five hundred feet to the front and rear in normal sunlight. Turn signal lamps may, but need not be, incorporated in other lamps on the vehicle.

(3) Any vehicle may be equipped and when required under this chapter shall be equipped with a center high-mounted stop lamp mounted on the center line of the rear of the vehicle. These stop lamps shall display a red light visible from a distance of not less than three hundred feet to the rear in normal sunlight, and shall be actuated upon application of a service brake, and may not be incorporated with any other rear lamps.

Sec. 4. RCW 46.37.390 and 2001 c 293 s 1 are each amended to read as follows:

(1) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cut-out, bypass, or similar device upon a motor vehicle on a highway.

(2)(a) No motor vehicle first sold and registered as a new motor vehicle on or after January 1, 1971, shall discharge into the atmosphere at elevations of less than three thousand feet any air contaminant for a period of more than ten seconds which is:

(i) As dark as or darker than the shade designated as No. 1 on the Ringelmann chart, as published by the United States bureau of mines; or

(ii) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subsection (a)(i) above.

(b) No motor vehicle first sold and registered prior to January 1, 1971, shall discharge into the atmosphere at elevations of less than three thousand feet any air contaminant for a period of more than ten seconds which is:

(i) As dark as or darker than the shade designated as No. 2 on the Ringelmann chart, as published by the United States bureau of mines; or

(ii) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subsection (b)(i) above.

(c) For the purposes of this subsection the following definitions shall apply:

(i) "Opacity" means the degree to which an emission reduces the transmission of light and obscures the view of an object in the background;

(ii) "Ringelmann chart" means the Ringelmann smoke chart with instructions for use as published by the United States bureau of mines in May 1967 and as thereafter amended, information circular 7718.

(3) No person shall modify the exhaust system of a motor vehicle in a manner which will amplify or increase the noise emitted by the engine of such vehicle above that emitted by the muffler originally installed on the vehicle, and it shall be unlawful for any person to operate a motor vehicle not equipped as required by this subsection, or which has been amplified as prohibited by this subsection ((~~so that the vehicle's exhaust noise exceeds ninety-five decibels as measured by the Society of Automotive Engineers (SAE) test procedure J1169 (May, 1998). It is not a violation of this subsection unless proven by proper authorities that the exhaust system modification results in noise amplification in excess of ninety-five decibels under the prescribed SAE test standard~~)). A court may dismiss an infraction notice for a violation of this subsection if there is reasonable grounds to believe that the vehicle was not operated in violation of this subsection.

This subsection (3) does not apply to vehicles twenty-five or more years old or to passenger vehicles being operated off the highways in an organized racing or competitive event conducted by a recognized sanctioning body."

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

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to House Bill No. 2465.

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

MOTION

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

On page 1, line 2 of the title, after "installed;" strike the remainder of the title and insert "and amending RCW 46.37.010, 46.37.070, 46.37.200, and 46.37.390."

MOTION

On motion of Senator Benson, the rules were suspended, House Bill No. 2465 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Benson spoke in favor of passage of the bill.

MOTION

On motion of Senator Brandland, Senator Roach was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 2465 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2465 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 46

Absent: Senator Brown - 1

Excused: Senators McCaslin and Roach - 2

HOUSE BILL NO. 2465 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2867, by House Committee on Appropriations (originally sponsored by Representatives Kenney, Haler, Grant, Hankins, Cox, Sells, Roberts, Fromhold, Armstrong, Walsh, Skinner and Newhouse)

Regarding expansion of WSU Tri-Cities into a four-year institution.

The measure was read the second time.

MOTION

Senator Delvin moved that the following committee striking amendment by the Committee on Ways & Means be not adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1** RCW 28B.45.030 and 2005 c 258 s 4 are each amended to read as follows:

(1) Washington State University is responsible for providing baccalaureate and graduate level higher education programs to the citizens of the Tri-Cities area, under rules or guidelines adopted by the higher education coordinating board and in accordance with proportionality agreements emphasizing access for transfer students developed with the state board for community and technical colleges. Washington State University shall meet that responsibility through the operation of a branch campus in the Tri-Cities area. The branch campus shall replace and supersede the Tri-Cities university center. All land, facilities, equipment, and personnel of the Tri-Cities university center shall be transferred from the University of Washington to Washington State University.

(2) Washington State University Tri-Cities shall continue providing innovative coadmission and coenrollment options with Columbia Basin College, and expand its upper division capacity for transfer students and graduate capacity and programs. The campus shall also seek additional opportunities to collaborate with the Pacific Northwest national laboratory. ((~~Beginning in the fall of 2006, the campus may offer lower division courses linked to specific majors in fields not addressed at local community colleges. The campus may admit lower division students through coadmission or coenrollment agreements with a community college, or through direct transfer for students who have accumulated approximately one year of transferable college credits. In addition to offering lower~~

~~division courses linked to specific majors as addressed above, the campus may also directly admit freshmen and sophomores for a bachelor's degree program in biotechnology subject to approval by the higher education coordinating board. The campus may not directly admit freshmen and sophomores for degree programs other than biotechnology, however this topic shall be the subject of further study and recommendations by the higher education coordinating board.~~))

(3) Beginning in the fall of 2006, the campus may admit lower division students directly, while continuing to work closely with Columbia Basin College providing innovative coadmission, coenrollment, and program options as articulated in the Columbia Basin College and Washington State University Tri-Cities Coordinated Bachelors agreement. By simultaneously admitting freshmen and sophomores, increasing transfer enrollment, coadmitting transfer students, and expanding graduate and professional programs, the campus shall develop into a four-year institution of higher education serving the Tri-Cities region."

On page 1, line 2 of the title, after "Tri-Cities;" strike the remainder of the title and insert "and amending RCW 28B.45.030."

Senator Delvin spoke in favor of not adopting the committee striking amendment.

The President Pro Tempore declared the question before the Senate to motion by Senator Delvin to not adopt the committee striking amendment by the Committee on Ways & Means to Substitute House Bill No. 2867.

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

MOTION

On motion of Senator Delvin, the rules were suspended, Substitute House Bill No. 2867 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Delvin, Pridemore and Hewitt spoke in favor of passage of the bill.

MOTION

On motion of Senator Schoesler, Senators Schmidt, Honeyford and Stevens were excused.

MOTION

On motion of Senator Regala, Senator Brown was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2867.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2867 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 44

Excused: Senators Brown, Honeyford, McCaslin, Schmidt and Stevens - 5

SUBSTITUTE HOUSE BILL NO. 2867, 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 Delvin: "Thank you Madam President. I would just like to thank the Floor Leader and also the Majority Leader for their help on this one. Keeping me in line in order to get this bill down there and not erupt and say something I shouldn't say on the floor. I really appreciate that. Thank you Madam President."

MOTION

On motion of Senator Schoesler, Senators Mulliken and Hewitt were excused.

MOTION

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

MOTION

Senator Fraser moved adoption of the following resolution:

SENATE RESOLUTION
8730

By Senator Fraser

WHEREAS, Dr. Kenneth J. Minnaert is the only president South Puget Sound Community College has ever known; and

WHEREAS, Dr. Minnaert has been president since 1980, serving longer than any other higher education president in Washington; and

WHEREAS, After 30 years of service to the school, Dr. Minnaert is retiring at the end of the 2006 academic year; and

WHEREAS, Dr. Minnaert's leadership, hard work, and innovation has transformed South Puget Sound Community College into a well-respected institution of higher education; and

WHEREAS, Dr. Minnaert began his service in 1975 as director of instruction when the school was a small institution known as Olympia Vocational Technical Institute; and

WHEREAS, Dr. Minnaert has guided the South Puget Sound Community College's transformation from a small vocational and technical school to a wide-reaching community college that provides a first class, comprehensive education; and

WHEREAS, Through Dr. Minnaert's dedicated stewardship, the college has grown in size and stature, growing from 56 acres when he started in 1975, to the current 101 acres, which includes the Hawk's Prairie Center satellite campus and the recently dedicated Dr. Kenneth J. Minnaert Center for the Arts; and

WHEREAS, With Dr. Minnaert's support, South Puget Sound Community College's technical programs have doubled, its enrollment has multiplied nearly twenty-fold, and its faculty has nearly tripled; and

WHEREAS, Dr. Minnaert has fostered relationships between South Puget Sound Community College and local hospitals and area schools, as well as sister colleges in New Zealand, Mexico, Ireland, and China; and

WHEREAS, Dr. Minnaert is an accomplished leader who is respected for his unwavering dedication to the college and community;

NOW, THEREFORE, BE IT RESOLVED, That the Senate offer its gratitude and commendation to Dr. Kenneth J. Minnaert for his commitment to higher education and the community; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Dr. Kenneth J. Minnaert and his family, and South Puget Sound Community College.

Senators Fraser, Swecker and Rockefeller spoke in favor of adoption of the resolution.

The President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8730.

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

INTRODUCTION OF SPECIAL GUESTS

The President Pro Tempore welcomed and introduced Dr. Kenneth J. Minnaert and his wife who were seated in the gallery.

MOTION

On motion of Senator Eide, Rule 15 was suspended for the remainder of the day for the purpose of allowing continued floor action.

EDITOR'S NOTE: Senate Rule 15 establishes the floor schedule and calls for a lunch and dinner break of 90 minutes each per day during regular daily sessions.

MOTION

At 12:36 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 1:37 p.m. by President Owen.

MOTION

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

MESSAGE FROM THE HOUSE

March 3, 2006

MR. PRESIDENT:
The House has passed the following bill{s}:
SENATE BILL NO. 6453,
and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

March 2, 2006

MR. PRESIDENT:
The House has passed the following bill{s}:
SECOND SUBSTITUTE SENATE BILL NO. 6823,
and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

March 2, 2006

MR. PRESIDENT:
The House has passed the following bill{s}:
SUBSTITUTE SENATE BILL NO. 5236,
SUBSTITUTE SENATE BILL NO. 6246,
SUBSTITUTE SENATE BILL NO. 6320,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6459,
SUBSTITUTE SENATE BILL NO. 6613,
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

March 1, 2006

MR. PRESIDENT:
The Speaker has signed:
THIRD SUBSTITUTE HOUSE BILL NO. 1458,
HOUSE BILL NO. 2338,
ENGROSSED HOUSE BILL NO. 2340,
SUBSTITUTE HOUSE BILL NO. 2344,
HOUSE BILL NO. 2367,
SUBSTITUTE HOUSE BILL NO. 2372,
SUBSTITUTE HOUSE BILL NO. 2376,
HOUSE BILL NO. 2406,
HOUSE BILL NO. 2454,
SUBSTITUTE HOUSE BILL NO. 2497,
SUBSTITUTE HOUSE BILL NO. 2538,
SUBSTITUTE HOUSE BILL NO. 2608,
HOUSE BILL NO. 2676,
SUBSTITUTE HOUSE BILL NO. 2684,
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

March 1, 2006

MR. PRESIDENT:
The Speaker has signed:
SUBSTITUTE HOUSE BILL NO. 2715,
SUBSTITUTE HOUSE BILL NO. 2759,
SUBSTITUTE HOUSE BILL NO. 2776,
HOUSE BILL NO. 2829,
HOUSE BILL NO. 2897,
ENGROSSED HOUSE BILL NO. 2910,
HOUSE BILL NO. 3019,
SUBSTITUTE HOUSE BILL NO. 3024,
SUBSTITUTE HOUSE BILL NO. 3150,
SUBSTITUTE HOUSE BILL NO. 3190,
HOUSE BILL NO. 3266,
HOUSE JOINT MEMORIAL NO. 4038,
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

March 1, 2006

MR. PRESIDENT:
The Speaker has signed:
SECOND SUBSTITUTE HOUSE BILL NO. 2292,
and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed.
THIRD SUBSTITUTE HOUSE BILL NO. 1458,
HOUSE BILL NO. 2338,

ENGROSSED HOUSE BILL NO. 2340,
SUBSTITUTE HOUSE BILL NO. 2344,
HOUSE BILL NO. 2367,
SUBSTITUTE HOUSE BILL NO. 2372,
SUBSTITUTE HOUSE BILL NO. 2376,
HOUSE BILL NO. 2406,
HOUSE BILL NO. 2454,
SUBSTITUTE HOUSE BILL NO. 2497,
SUBSTITUTE HOUSE BILL NO. 2538,
SUBSTITUTE HOUSE BILL NO. 2608,
HOUSE BILL NO. 2676,
SUBSTITUTE HOUSE BILL NO. 2684,

SIGNED BY THE PRESIDENT

The President signed.
SUBSTITUTE HOUSE BILL NO. 2715,
SUBSTITUTE HOUSE BILL NO. 2759,
SUBSTITUTE HOUSE BILL NO. 2776,
HOUSE BILL NO. 2829,
HOUSE BILL NO. 2897,
ENGROSSED HOUSE BILL NO. 2910,
HOUSE BILL NO. 3019,
SUBSTITUTE HOUSE BILL NO. 3024,
SUBSTITUTE HOUSE BILL NO. 3150,
SUBSTITUTE HOUSE BILL NO. 3190,
HOUSE BILL NO. 3266,
HOUSE JOINT MEMORIAL NO. 4038,

SIGNED BY THE PRESIDENT

The President signed.
SECOND SUBSTITUTE HOUSE BILL NO. 2292,

SIGNED BY THE PRESIDENT

The President signed:
SENATE BILL NO. 5439,
ENGROSSED SENATE BILL NO. 6152,
SENATE BILL NO. 6159,
ENGROSSED SENATE BILL NO. 6169,
SUBSTITUTE SENATE BILL NO. 6185,
SENATE BILL NO. 6208,
ENGROSSED SENATE BILL NO. 6236,
SENATE BILL NO. 6338,
SUBSTITUTE SENATE BILL NO. 6359,
SUBSTITUTE SENATE BILL NO. 6406,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6480,
ENGROSSED SENATE BILL NO. 6537,
SENATE BILL NO. 6549,
SENATE BILL NO. 6576,
SENATE BILL NO. 6596,

MOTION

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

SECOND READING

HOUSE BILL NO. 2991, by Representatives Darneille, Walsh, Springer and Simpson

Concerning background checks of metropolitan park district employees.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 35.61.130 and 1969 c 54 s 1 are each amended to read as follows:

(1) A metropolitan park district has the right of eminent domain, and may purchase, acquire and condemn lands lying within or without the boundaries of said park district, for public parks, parkways, boulevards, aviation landings and playgrounds, and may condemn such lands to widen, alter and extend streets, avenues, boulevards, parkways, aviation landings and playgrounds, to enlarge and extend existing parks, and to acquire lands for the establishment of new parks, boulevards, parkways, aviation landings and playgrounds. The right of eminent domain shall be exercised and instituted pursuant to resolution of the board of park commissioners and conducted in the same manner and under the same procedure as is or may be provided by law for the exercise of the power of eminent domain by incorporated cities and towns of the state of Washington in the acquisition of property rights: PROVIDED, HOWEVER, Funds to pay for condemnation allowed by this section shall be raised only as specified in this chapter.

(2) The board of park commissioners shall have power to employ counsel, and to regulate, manage and control the parks, parkways, boulevards, streets, avenues, aviation landings and playgrounds under its control, and to provide for park ((~~policemen~~)) police, for a secretary of the board of park commissioners and for all necessary employees, to fix their salaries and duties.

(3) The board of park commissioners shall have power to improve, acquire, extend and maintain, open and lay out, parks, parkways, boulevards, avenues, aviation landings and playgrounds, within or without the park district, and to authorize, conduct and manage the letting of boats, or other amusement apparatus, the operation of bath houses, the purchase and sale of foodstuffs or other merchandise, the giving of vocal or instrumental concerts or other entertainments, the establishment and maintenance of aviation landings and playgrounds, and generally the management and conduct of such forms of recreation or business as it shall judge desirable or beneficial for the public, or for the production of revenue for expenditure for park purposes; and may pay out moneys for the maintenance and improvement of any such parks, parkways, boulevards, avenues, aviation landings and playgrounds as now exist, or may hereafter be acquired, within or without the limits of said city and for the purchase of lands within or without the limits of said city, whenever it deems the purchase to be for the benefit of the public and for the interest of the park district, and for the maintenance and improvement thereof and for all expenses incidental to its duties: PROVIDED, That all parks, boulevards, parkways, aviation landings and playgrounds shall be subject to the police regulations of the city within whose limits they lie.

(4) For all employees, volunteers, or independent contractors, who may, in the course of their work or volunteer activity with the park district, have unsupervised access to children or vulnerable adults, or be responsible for collecting or disbursing cash or processing credit/debit card transactions, park districts shall establish by resolution the requirements for a record check through the Washington state patrol criminal identification system under RCW 43.43.830 through 43.43.834, 10.97.030, and 10.97.050 and through the federal bureau of investigation, including a fingerprint check using a complete Washington state criminal identification fingerprint card. The park district shall provide a copy of the record report to the employee, volunteer, or independent contractor. When necessary, as determined by the park district, prospective employees, volunteers, or independent contractors may be employed on a conditional

basis pending completion of the investigation. If the prospective employee, volunteer, or independent contractor has had a record check within the previous twelve months, the park district may waive the requirement upon receiving a copy of the record. The park district may in its discretion require that the prospective employee, volunteer, or independent contractor pay the costs associated with the record check."

Senators Kastama and Honeyford spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Kastama to House Bill No. 2991.

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

MOTION

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

On page 1, line 2 of the title, after "contractors;" strike the remainder of the title and insert "and amending RCW 35.61.130."

MOTION

On motion of Senator Kastama, the rules were suspended, House Bill No. 2991 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2991 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2991 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 2; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Absent: Senators Deccio and Kline - 2

HOUSE BILL NO. 2991 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2386, by Representatives B. Sullivan and Chase

Modifying provisions related to the commercial harvest of geoduck clams.

The measure was read the second time.

MOTION

On motion of Senator Jacobsen, the rules were suspended, House Bill No. 2386 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator Regala, Senator Kline was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 2386.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2386 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 49

HOUSE BILL NO. 2386, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2345, by House Committee on Local Government (originally sponsored by Representatives Simpson, Rodne, Appleton and Haler)

Addressing regional fire protection service authorities.

The measure was read the second time.

MOTION

Senator Kastama moved that the following committee striking amendment by the Committee on Government Operations & Elections not be adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 52.26.020 and 2004 c 129 s 2 are each amended to read as follows:

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

(1) "Board" means the governing body of a regional fire protection service authority.

(2) "Regional fire protection service authority" or "authority" means a municipal corporation, an independent taxing authority within the meaning of Article VII, section 1 of the state Constitution, and a taxing district within the meaning of Article VII, section 2 of the state Constitution, whose boundaries are coextensive with two or more adjacent fire protection jurisdictions and that has been created by a vote of

the people under this chapter to implement a regional fire protection service authority plan.

(3) "Regional fire protection service authority planning committee" or "planning committee" means the advisory committee created under RCW 52.26.030 to create and propose to fire protection jurisdictions a regional fire protection service authority plan to design, finance, and develop fire protection and emergency service projects.

(4) "Regional fire protection service authority plan" or "plan" means a plan to develop and finance a fire protection service authority project or projects, including, but not limited to, specific capital projects, fire operations and emergency service operations pursuant to RCW 52.26.040(3)(b), and preservation and maintenance of existing or future facilities.

(5) "Fire protection jurisdiction" means a fire district, city, town, port district, or Indian tribe.

(6) "Regular property taxes" has the same meaning as in RCW 84.04.140.

Sec. 2. RCW 52.26.040 and 2004 c 129 s 4 are each amended to read as follows:

(1) A regional fire protection service authority planning committee shall adopt a regional fire protection service authority plan providing for the design, financing, and development of fire protection and emergency services. The planning committee may consider the following factors in formulating its plan:

(a) Land use planning criteria; and

(b) The input of cities and counties located within, or partially within, a participating fire protection jurisdiction.

(2) The planning committee may coordinate its activities with neighboring cities, towns, and other local governments that engage in fire protection planning.

(3) The planning committee shall:

(a) Create opportunities for public input in the development of the plan;

(b) Adopt a plan proposing the creation of a regional fire protection service authority and recommending design, financing, and development of fire protection and emergency service facilities and operations, including maintenance and preservation of facilities or systems((~~, except that no~~)). The plan may authorize the authority to provide ambulance service ((~~may be recommended unless the regional fire protection service~~)), directly or by contract after call for bids, only after the board of the authority determines that the participating fire protection jurisdictions ((~~that are members of the authority~~)) are not adequately served by existing private ambulance service ((~~in which case the authority may provide for the establishment of a system of ambulance service to be operated by the authority or operated by contract after a call for bids~~)); and

(c) In the plan, recommend sources of revenue authorized by RCW 52.26.050, identify the portions of the plan that may be amended by the board of the authority without voter approval, consistent with RCW 52.26.050, and recommend a financing plan to fund selected fire protection ((~~service~~)) and emergency services and projects.

(4) Once adopted, the plan must be forwarded to the participating fire protection jurisdictions' governing bodies to initiate the election process under RCW 52.26.060.

(5) If the ballot measure is not approved, the planning committee may redefine the selected regional fire protection service authority projects, financing plan, and the ballot measure. The fire protection jurisdictions' governing bodies may approve the new plan and ballot measure, and may then submit the revised proposition to the voters at a subsequent election or a special election. If a ballot measure is not approved by the voters by the third vote, the planning committee is dissolved.

Sec. 3. RCW 52.26.050 and 2004 c 129 s 5 are each amended to read as follows:

(1) A regional fire protection service authority planning committee may, as part of a regional fire protection service authority plan, recommend the imposition of some or all of the following revenue sources, which a regional fire protection service authority may impose upon approval of the voters as provided in this chapter:

(a) Benefit charges under RCW 52.26.180 through 52.26.270;

(b) Property taxes under RCW 52.26.140 through 52.26.170 and 84.52.044 and RCW 84.09.030, 84.52.010, 84.52.052, and 84.52.069; or

(c) Both (a) and (b) of this subsection.

(2) The authority may impose taxes and benefit charges ((~~may not be imposed unless they are identified~~)) as set forth in the regional fire protection service authority plan ((~~and the plan is~~)) upon creation of the authority, or as provided for in this chapter after creation of the authority. If the plan authorizes the authority to impose benefit charges or sixty percent voter approved taxes, the plan and creation of the authority must be approved by an affirmative vote of sixty percent of the voters within the boundaries of the authority voting on a ballot proposition as set forth in RCW 52.26.060. However, if the plan provides for alternative sources of revenue that become effective if the plan and creation of the authority is approved only by a majority vote, then the plan with alternative sources of revenue and creation of the authority may be approved by an affirmative vote of the majority of those voters. If the plan does not authorize the authority to impose benefit charges or sixty percent voter approved taxes, the plan and creation of the authority must be approved by an affirmative vote of the majority of the voters within the boundaries of the authority voting on a ballot proposition as set forth in RCW 52.26.060. ((~~The voter approval requirement~~)) Except as provided in this section ((~~is in addition to any~~)), all other voter approval requirements under law for the levying of property taxes or the imposition of benefit charges apply. Revenues from these taxes and benefit charges may be used only to implement the plan as set forth in this chapter.

Sec. 4. RCW 52.26.060 and 2004 c 129 s 6 are each amended to read as follows:

The governing bodies of two or more adjacent fire protection jurisdictions, upon receipt of the regional fire protection service authority plan under RCW 52.26.040, may certify the plan to the ballot, including identification of the ((~~tax~~)) revenue options ((~~necessary~~)) specified to fund the plan. The governing bodies of the fire protection jurisdictions may draft a ballot title, give notice as required by law for ballot measures, and perform other duties as required to put the plan before the voters of the proposed authority for their approval or rejection as a single ballot measure that both approves formation of the authority and approves the plan. Authorities may negotiate interlocal agreements necessary to implement the plan. The electorate is the voters voting within the boundaries of the proposed regional fire protection service authority. A simple majority of the total persons voting on the single ballot measure

to approve the plan((,)) and establish the authority((, and approve the taxes)) is required for approval. However, if the plan authorizes the authority to impose benefit charges or sixty percent voter approved taxes, then the percentage of total persons voting on the single ballot measure to approve the plan and establish the authority is the same as in RCW 52.26.050. The authority must act in accordance with the general election laws of the state. The authority is liable for its proportionate share of the costs when the elections are held under RCW ((29A.04.320)) 29A.04.321 and 29A.04.330.

Sec. 5. RCW 52.26.070 and 2004 c 129 s 7 are each amended to read as follows:

If the voters approve the plan, including creation of a regional fire protection service authority and imposition of taxes and benefit charges, if any, the authority is formed on the next January 1st or July 1st, whichever occurs first. The appropriate county election officials shall, within fifteen days of the final certification of the election results, publish a notice in a newspaper or newspapers of general circulation in the authority declaring the authority formed. A party challenging the procedure or the formation of a voter-approved authority must file the challenge in writing by serving the prosecuting attorney of each county within, or partially within, the regional fire protection service authority and the attorney general within thirty days after the final certification of the election. Failure to challenge within that time forever bars further challenge of the authority's valid formation.

Sec. 6. RCW 52.26.090 and 2004 c 129 s 9 are each amended to read as follows:

(1) The governing board of the authority is responsible for the execution of the voter-approved plan. Participating jurisdictions shall review the plan every ten years. The board ((shall)) may:

(a) Levy ((and impose)) taxes and impose benefit charges as authorized in the plan and approved by authority voters;

(b) Enter into agreements with federal, state, local, and regional entities and departments as necessary to accomplish authority purposes and protect the authority's investments;

(c) Accept gifts, grants, or other contributions of funds that will support the purposes and programs of the authority;

(d) Monitor and audit the progress and execution of fire protection and emergency service projects to protect the investment of the public and annually make public its findings;

(e) Pay for services and enter into leases and contracts, including professional service contracts;

(f) Hire, manage, and terminate employees; and

(g) Exercise ((other)) powers and perform duties as ((may be reasonable)) the board determines necessary to carry out the purposes, functions, and projects of the authority in accordance with Title 52 RCW if one of the fire protection jurisdictions is a fire district, unless provided otherwise in the regional fire protection service authority plan, or in accordance with the statutes identified in the plan if none of the fire protection jurisdictions is a fire district.

(2) ((An authority may acquire, hold, or dispose of real property.

(3) An authority may exercise the powers of eminent domain.

(4))) An authority may enforce fire codes as provided under chapter 19.27 RCW.

Sec. 7. RCW 52.26.100 and 2004 c 129 s 10 are each amended to read as follows:

(1) Except as otherwise provided in the regional fire protection service authority plan, all powers, duties, and functions of a participating fire protection jurisdiction pertaining to ((providing)) fire protection and emergency services ((may)) shall be transferred((, by resolution,)) to the regional fire protection service authority on its creation date.

(2)(a) Except as otherwise provided in the regional fire protection service authority plan, and on the creation date of the regional fire protection service authority, all reports, documents, surveys, books, records, files, papers, or written material in the possession of the participating fire protection jurisdiction pertaining to ((the)) fire protection and emergency services powers, functions, and duties ((transferred)) shall be delivered to the ((custody of the)) regional fire protection service authority((,)); all real property and personal property including cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the participating fire protection jurisdiction in carrying out the fire protection and emergency services powers, functions, and duties ((transferred)) shall be ((made available)) transferred to the regional fire protection service authority((,)); and all funds, credits, or other assets held by the participating fire protection jurisdiction in connection with the fire protection and emergency services powers, functions, and duties ((transferred)) shall be ((assigned)) transferred and credited to the regional fire protection service authority.

(b) Except as otherwise provided in the regional fire protection service authority plan, any appropriations made to the participating fire protection jurisdiction for carrying out the fire protection and emergency services powers, functions, and duties ((transferred)) shall((, on the effective date of the resolution,)) be transferred and credited to the regional fire protection service authority.

(c) Except as otherwise provided in the regional fire protection service authority plan, 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, the governing body of the participating fire protection jurisdiction shall make a determination as to the proper allocation.

(3) Except as otherwise provided in the regional fire protection service authority plan, all rules and all pending business before the participating fire protection jurisdiction pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the regional fire protection service authority((,)), and all existing contracts and obligations shall remain in full force and shall be performed by the regional fire protection service authority.

(4) The transfer of the powers, duties, functions, and personnel of the participating fire protection jurisdiction shall not affect the validity of any act performed before ((the effective date of the resolution)) creation of the regional fire protection service authority.

(5) If apportionments of budgeted funds are required because of the transfers ((directed by the resolution)), the treasurer ((under RCW 52.26.170)) for the authority shall certify the apportionments.

(6) 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. RCW ((~~35.13.215 through 35.13.235~~)) 52.06.110 through 52.06.130 apply to the transfer of employees under this section.

NEW SECTION. **Sec. 8.** A new section is added to chapter 52.26 RCW to read as follows:

Territory that is annexed to a participating jurisdiction is annexed to the authority as of the effective date of the annexation. The statutes regarding transfer of assets and employees do not apply to the participating jurisdictions in the annexation.

Sec. 9. RCW 52.26.130 and 2004 c 129 s 14 are each amended to read as follows:

((~~Unless contrary to this section, chapter 39.42 RCW applies to debt and bonding under this section. The authority may borrow money, but may not issue any debt of its own for more than ten years' duration.~~)) An authority may incur general indebtedness for authority purposes, issue bonds, notes, or other evidences of indebtedness ((~~with a maturity of not more than twenty years. An authority may, when authorized by the plan, enter into agreements with the state to pledge taxes or other revenues of the authority for the purpose of paying in part or whole principal and interest on bonds issued by the authority~~)) not to exceed an amount, together with any outstanding nonvoter approved general obligation debt, equal to three-fourths of one percent of the value of the taxable property within the authority. The maximum term of the obligations may not exceed twenty years. The obligations may pledge benefit charges and may pledge payments to an authority from the state, the federal government, or any fire protection jurisdiction under an interlocal contract. The interlocal contracts pledging revenues and taxes are binding for ((~~the~~)) a term ((~~of the agreement, but~~)) not to exceed twenty-five years, and ((~~no tax~~)) taxes or other revenue pledged by an ((~~agreement~~)) interlocal contract may not be eliminated or modified if it would impair the pledge of the ((~~agreement~~)) contract. An authority may also issue general obligation bonds for capital purposes not to exceed an amount, together with any outstanding general obligation debt, equal to one and one-half percent of the value of the taxable property within the authority, and to provide for the retirement thereof by excess property tax levies, when the voters of the authority have approved a proposition authorizing indebtedness and levies by an affirmative vote of three-fifths of those voting on the proposition at an election, at which election the total number of persons voting constitutes not less than forty percent of the voters in the authority who voted at the last preceding general state election. The maximum term of the bonds may not exceed twenty-five years. Elections shall be held as provided in RCW 39.36.050. Obligations of an authority shall be issued and sold in accordance with chapters 39.46 and 39.50 RCW, as applicable.

Sec. 10. RCW 52.26.140 and 2004 c 129 s 15 are each amended to read as follows:

(1) To carry out the purposes for which a regional fire protection service authority is created, as authorized in the plan and approved by the voters, the governing board of an authority may annually levy the following taxes:

(a) An ad valorem tax on all taxable property located within the authority not to exceed fifty cents per thousand dollars of assessed value;

(b) An ad valorem tax on all property located within the authority not to exceed fifty cents per thousand dollars of assessed value and which will not cause the combined levies to exceed the constitutional or statutory limitations. This levy, or any portion of this levy, may also be made when dollar rates of other taxing units are released by agreement with the other taxing units from their authorized levies; and

(c) An ad valorem tax on all taxable property located within the authority not to exceed fifty cents per thousand dollars of assessed value if the authority has at least one full-time, paid employee, or contracts with another municipal corporation for the services of at least one full-time, paid employee. This levy may be made only if it will not affect dollar rates which other taxing districts may lawfully claim nor cause the combined levies to exceed the constitutional or statutory limitations or both.

(2) Levies in excess of the amounts provided in subsection (1) of this section or in excess of the aggregate dollar rate limitations or both may be made for any authority purpose when so authorized at a special election under RCW 84.52.052. Any such tax when levied must be certified to the proper county officials for the collection of the tax as for other general taxes. The taxes when collected shall be placed in the appropriate authority fund or funds as provided by law, and must be paid out on warrants of the auditor of the county in which all, or the largest portion of, the authority is located, upon authorization of the governing board of the authority.

(3) ((~~Authorities are additionally authorized to incur general indebtedness and to issue general obligation bonds for capital purposes as provided in RCW 52.26.130.~~)) Authorities may provide for the retirement of general indebtedness by excess property tax levies((~~, when the voters of the authority have approved a proposition authorizing such indebtedness and levies by an affirmative vote of three-fifths of those voting on the proposition at such an election, at which election the total number of persons voting shall constitute not less than forty percent of the voters in the authority who voted at the last preceding state general election. Elections must be held as provided in RCW 39.36.050. The maximum term of any bonds issued under the authority of this section may not exceed ten years and must be issued and sold in accordance with chapter 39.46 RCW~~)) as set forth in RCW 52.26.130.

(4) For purposes of this ((~~section~~)) chapter, the term "value of the taxable property" has the same meaning as in RCW 39.36.015.

Sec. 11. RCW 52.26.220 and 2004 c 129 s 28 are each amended to read as follows:

(1) Notwithstanding any other provision in this chapter to the contrary, any benefit charge authorized by this chapter is not effective unless a proposition to impose the benefit charge is approved by a sixty percent majority of the voters of the regional fire protection service authority voting at a general election or at a special election called by the authority for that purpose, held within the authority. A ballot measure that contains an authorization to impose benefit charges and that is approved by the voters pursuant to RCW 52.26.060 meets the proposition approval requirement of this section. An election held under this section must be held not more than twelve months prior to the date on which the first charge is to be assessed. A benefit charge approved at an election expires in six years or fewer as authorized by the voters, unless subsequently reapproved by the voters.

(2) The ballot must be submitted so as to enable the voters favoring the authorization of a regional fire protection service

authority benefit charge to vote "Yes" and those opposed to vote "No." The ballot question is as follows:

"Shall . . . . . the regional fire protection service authority composed of (insert the participating fire protection jurisdictions) . . . . . be authorized to impose benefit charges each year for . . . . (insert number of years not to exceed six) years, not to exceed an amount equal to sixty percent of its operating budget, and be prohibited from imposing an additional property tax under RCW 52.26.140(1)(c)?

YES NO
☐ ☐"

(3) Authorities renewing the benefit charge may elect to use the following alternative ballot:

"Shall . . . . . the regional fire protection service authority composed of (insert the participating fire protection jurisdictions) . . . . . be authorized to continue voter-authorized benefit charges each year for . . . . (insert number of years not to exceed six) years, not to exceed an amount equal to sixty percent of its operating budget, and be prohibited from imposing an additional property tax under RCW 52.26.140(1)(c)?

YES NO
☐ ☐""

On page 1, line 1 of the title, after "authorities;" strike the remainder of the title and insert "amending RCW 52.26.020, 52.26.040, 52.26.050, 52.26.060, 52.26.070, 52.26.090, 52.26.100, 52.26.130, 52.26.140, and 52.26.220; and adding a new section to chapter 52.26 RCW."

The President declared the question before the Senate to be the motion by Senator Kastama to not adopt the committee striking amendment by the Committee on Government Operations & Elections to Substitute House Bill No. 2345.

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

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 52.26.020 and 2004 c 129 s 2 are each amended to read as follows:

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

(1) "Board" means the governing body of a regional fire protection service authority.

(2) "Regional fire protection service authority" or "authority" means a municipal corporation, an independent taxing authority within the meaning of Article VII, section 1 of the state Constitution, and a taxing district within the meaning of Article VII, section 2 of the state Constitution, whose boundaries are coextensive with two or more adjacent fire protection jurisdictions and that has been created by a vote of the people under this chapter to implement a regional fire protection service authority plan.

(3) "Regional fire protection service authority planning committee" or "planning committee" means the advisory committee created under RCW 52.26.030 to create and propose to fire protection jurisdictions a regional fire protection service authority plan to design, finance, and develop fire protection and emergency service projects.

(4) "Regional fire protection service authority plan" or "plan" means a plan to develop and finance a fire protection service authority project or projects, including, but not limited to, specific capital projects, fire operations and emergency service operations pursuant to RCW 52.26.040(3)(b), and preservation and maintenance of existing or future facilities.

(5) "Fire protection jurisdiction" means a fire district, city, town, port district, or Indian tribe.

(6) "Regular property taxes" has the same meaning as in RCW 84.04.140.

Sec. 2. RCW 52.26.040 and 2004 c 129 s 4 are each amended to read as follows:

(1) A regional fire protection service authority planning committee shall adopt a regional fire protection service authority plan providing for the design, financing, and development of fire protection and emergency services. The planning committee may consider the following factors in formulating its plan:

(a) Land use planning criteria; and

(b) The input of cities and counties located within, or partially within, a participating fire protection jurisdiction.

(2) The planning committee may coordinate its activities with neighboring cities, towns, and other local governments that engage in fire protection planning.

(3) The planning committee shall:

(a) Create opportunities for public input in the development of the plan;

(b) Adopt a plan proposing the creation of a regional fire protection service authority and recommending design, financing, and development of fire protection and emergency service facilities and operations, including maintenance and preservation of facilities or systems((~~, except that no ambulance service may be recommended unless the regional fire protection service authority determines that the fire protection jurisdictions that are members of the authority are not adequately served by existing private ambulance service in which case the authority may provide for the establishment of a system of ambulance service to be operated by the authority or operated by contract after a call for bids~~)). The plan may authorize the authority to establish a system of ambulance service to be operated by the authority or operated by contract after a call for bids. However, the authority shall not provide for the establishment of an ambulance service that would compete with any existing private ambulance service, unless the authority determines that the region served by the authority, or a substantial portion of the region served by the authority, is not adequately served by an existing private ambulance service. In determining the adequacy of an existing private ambulance service, the authority shall take into consideration objective generally accepted medical standards and reasonable levels of service which must be published by the authority. Following the preliminary conclusion by the authority that the existing private ambulance service is inadequate, and before establishing an ambulance service or issuing a call for bids, the authority shall allow a minimum of sixty days for the private ambulance service to meet the generally accepted medical standards and accepted levels of service. In the event of a second preliminary conclusion of inadequacy within a twenty-four-month period, the authority may immediately issue a call for bids or establish its own ambulance service 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. A private ambulance service that is not licensed by the department of health or whose license is denied, suspended, or revoked is not entitled to a sixty-day period within which to demonstrate adequacy and the authority may immediately issue a call for bids or establish an ambulance service; and

(c) In the plan, recommend sources of revenue authorized by RCW 52.26.050, identify the portions of the plan that may be amended by the board of the authority without voter approval, consistent with RCW 52.26.050, and recommend a financing plan to fund selected fire protection ((~~service~~)) and emergency services and projects.

(4) Once adopted, the plan must be forwarded to the participating fire protection jurisdictions' governing bodies to initiate the election process under RCW 52.26.060.

(5) If the ballot measure is not approved, the planning committee may redefine the selected regional fire protection service authority projects, financing plan, and the ballot measure. The fire protection jurisdictions' governing bodies may approve the new plan and ballot measure, and may then submit the revised proposition to the voters at a subsequent election or a special election. If a ballot measure is not approved by the voters by the third vote, the planning committee is dissolved.

Sec. 3. RCW 52.26.050 and 2004 c 129 s 5 are each amended to read as follows:

(1) A regional fire protection service authority planning committee may, as part of a regional fire protection service authority plan, recommend the imposition of some or all of the following revenue sources, which a regional fire protection service authority may impose upon approval of the voters as provided in this chapter:

(a) Benefit charges under RCW 52.26.180 through 52.26.270;

(b) Property taxes under RCW 52.26.140 through 52.26.170 and 84.52.044 and RCW 84.09.030, 84.52.010, 84.52.052, and 84.52.069; or

(c) Both (a) and (b) of this subsection.

(2) The authority may impose taxes and benefit charges ((~~may not be imposed unless they are identified~~)) as set forth in the regional fire protection service authority plan ((~~and the plan is~~)) upon creation of the authority, or as provided for in this chapter after creation of the authority. If the plan authorizes the authority to impose benefit charges or sixty percent voter approved taxes, the plan and creation of the authority must be approved by an affirmative vote of sixty percent of the voters within the boundaries of the authority voting on a ballot proposition as set forth in RCW 52.26.060. However, if the plan provides for alternative sources of revenue that become effective if the plan and creation of the authority is approved only by a majority vote, then the plan with alternative sources of revenue and creation of the authority may be approved by an affirmative vote of the majority of those voters. If the plan does not authorize the authority to impose benefit charges or sixty percent voter approved taxes, the plan and creation of the authority must be approved by an affirmative vote of the majority of the voters within the boundaries of the authority voting on a ballot proposition as set forth in RCW 52.26.060. ((~~The voter approval requirement~~)) Except as provided in this section ((~~is in addition to any~~)), all other voter approval requirements under law for the levying of property taxes or the imposition of benefit charges apply. Revenues from these taxes and benefit charges may be used only to implement the plan as set forth in this chapter.

Sec. 4. RCW 52.26.060 and 2004 c 129 s 6 are each amended to read as follows:

The governing bodies of two or more adjacent fire protection jurisdictions, upon receipt of the regional fire protection service authority plan under RCW 52.26.040, may certify the plan to the ballot, including identification of the ((~~tax~~)) revenue options ((~~necessary~~))specified to fund the plan. The governing bodies of the fire protection jurisdictions may draft a ballot title, give notice as required by law for ballot measures, and perform other duties as required to put the plan before the voters of the proposed authority for their approval or rejection as a single ballot measure that both approves formation of the authority and approves the plan. Authorities may negotiate interlocal agreements necessary to implement the plan. The electorate is the voters voting within the boundaries of the proposed regional fire protection service authority. A simple majority of the total persons voting on the single ballot measure to approve the plan((~~,~~)) and establish the authority((~~, and approve the taxes~~)) is required for approval. However, if the plan authorizes the authority to impose benefit charges or sixty percent voter approved taxes, then the percentage of total persons voting on the single ballot measure to approve the plan and establish the authority is the same as in RCW 52.26.050. The authority must act in accordance with the general election laws of the state. The authority is liable for its proportionate share of the costs when the elections are held under RCW ((~~29A.04.320~~)) 29A.04.321 and 29A.04.330.

Sec. 5. RCW 52.26.070 and 2004 c 129 s 7 are each amended to read as follows:

If the voters approve the plan, including creation of a regional fire protection service authority and imposition of taxes and benefit charges, if any, the authority is formed on the next January 1st or July 1st, whichever occurs first. The appropriate county election officials shall, within fifteen days of the final certification of the election results, publish a notice in a newspaper or newspapers of general circulation in the authority declaring the authority formed. A party challenging the procedure or the formation of a voter-approved authority must file the challenge in writing by serving the prosecuting attorney of each county within, or partially within, the regional fire protection service authority and the attorney general within thirty days after the final certification of the election. Failure to challenge within that time forever bars further challenge of the authority's valid formation.

Sec. 6. RCW 52.26.090 and 2004 c 129 s 9 are each amended to read as follows:

(1) The governing board of the authority is responsible for the execution of the voter-approved plan. Participating jurisdictions shall review the plan every ten years. The board ((~~shall~~)) may:

(a) Levy ((~~and impose~~)) taxes and impose benefit charges as authorized in the plan and approved by authority voters;

(b) Enter into agreements with federal, state, local, and regional entities and departments as necessary to accomplish authority purposes and protect the authority's investments;

(c) Accept gifts, grants, or other contributions of funds that will support the purposes and programs of the authority;

(d) Monitor and audit the progress and execution of fire protection and emergency service projects to protect the investment of the public and annually make public its findings;

(e) Pay for services and enter into leases and contracts, including professional service contracts;

(f) Hire, manage, and terminate employees; and

(g) Exercise ((~~other~~)) powers and perform duties as ((~~may be reasonable~~)) the board determines necessary to carry out the purposes, functions, and projects of the authority in accordance with Title 52 RCW if one of the fire protection jurisdictions is a fire district, unless provided otherwise in the regional fire protection service authority plan, or in accordance with the statutes identified in the plan if none of the fire protection jurisdictions is a fire district.

(2) ((~~An authority may acquire, hold, or dispose of real property.~~

~~(3) An authority may exercise the powers of eminent domain.~~

~~(4)~~)) An authority may enforce fire codes as provided under chapter 19.27 RCW.

Sec. 7. RCW 52.26.100 and 2004 c 129 s 10 are each amended to read as follows:

(1) Except as otherwise provided in the regional fire protection service authority plan, all powers, duties, and functions of a participating fire protection jurisdiction pertaining to ((~~providing~~)) fire protection and emergency services ((~~may~~)) shall be transferred((~~, by resolution.~~)) to the regional fire protection service authority on its creation date.

(2)(a) Except as otherwise provided in the regional fire protection service authority plan, and on the creation date of the regional fire protection service authority, all reports, documents, surveys, books, records, files, papers, or written material in the

possession of the participating fire protection jurisdiction pertaining to ((~~the~~)) fire protection and emergency services powers, functions, and duties ((~~transferred~~)) shall be delivered to the ((~~custody of the~~)) regional fire protection service authority((~~.~~)); all real property and personal property including cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the participating fire protection jurisdiction in carrying out the fire protection and emergency services powers, functions, and duties ((~~transferred~~)) shall be ((~~made available~~)) transferred to the regional fire protection service authority((~~.~~)); and all funds, credits, or other assets held by the participating fire protection jurisdiction in connection with the fire protection and emergency services powers, functions, and duties ((~~transferred~~)) shall be ((~~assigned~~)) transferred and credited to the regional fire protection service authority.

(b) Except as otherwise provided in the regional fire protection service authority plan, any appropriations made to the participating fire protection jurisdiction for carrying out the fire protection and emergency services powers, functions, and duties ((~~transferred~~)) shall((~~, on the effective date of the resolution,~~)) be transferred and credited to the regional fire protection service authority.

(c) Except as otherwise provided in the regional fire protection service authority plan, 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, the governing body of the participating fire protection jurisdiction shall make a determination as to the proper allocation.

(3) Except as otherwise provided in the regional fire protection service authority plan, all rules and all pending business before the participating fire protection jurisdiction pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the regional fire protection service authority((~~.~~)), and all existing contracts and obligations shall remain in full force and shall be performed by the regional fire protection service authority.

(4) The transfer of the powers, duties, functions, and personnel of the participating fire protection jurisdiction shall not affect the validity of any act performed before ((~~the effective date of the resolution~~)) creation of the regional fire protection service authority.

(5) If apportionments of budgeted funds are required because of the transfers ((~~directed by the resolution~~)), the treasurer ((~~under RCW 52.26.170~~)) for the authority shall certify the apportionments.

(6)(a) Subject to (c) of this subsection, all employees of the participating fire protection jurisdictions are transferred to the jurisdiction of the regional fire protection service authority 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 participating fire protection jurisdictions, an employee is entitled to the employee rights, benefits, and privileges to which he or she would have been entitled as an employee of a participating fire protection jurisdiction, 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 any or all of the participating fire protection jurisdictions provide for civil service in their fire departments, the collective bargaining representatives of the transferring employees and the participating fire protection jurisdictions must negotiate regarding the establishment of a civil service system within the authority. This subsection does not apply if none of the participating fire protection districts provide for civil service.

(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. ((~~RCW 35.13.215 through 35.13.235 apply to the transfer of employees under this section.~~))

NEW SECTION. **Sec. 8.** A new section is added to chapter 52.26 RCW to read as follows:

(1) Subject to subsection (2) of this section, a regional fire protection service authority may, by resolution of its board, provide for civil service for its employees in the same manner, with the same powers, and with the same force and effect as provided by chapter 41.08 RCW for cities, towns, and municipalities, including restrictions against the discharge of an employee because of residence outside the limits of the regional fire protection service authority.

(2) If an agreement is reached to provide for civil service under RCW 52.26.100(6), the regional fire protection service authority shall establish such a system as is required by the agreement.

NEW SECTION. **Sec. 9.** A new section is added to chapter 52.26 RCW to read as follows:

Territory that is annexed to a participating jurisdiction is annexed to the authority as of the effective date of the annexation. The statutes regarding transfer of assets and employees do not apply to the participating jurisdictions in the annexation.

Sec. 10. RCW 52.26.130 and 2004 c 129 s 14 are each amended to read as follows:

((~~Unless contrary to this section, chapter 39.42 RCW applies to debt and bonding under this section. The authority may borrow money, but may not issue any debt of its own for more than ten years' duration. An authority may issue notes or other evidences of indebtedness with a maturity of not more than twenty years. An authority may, when authorized by the plan, enter into agreements with the state to pledge taxes or other revenues of the authority for the purpose of paying in part or whole principal and interest on bonds issued by the authority. The contracts pledging revenues and taxes are binding for the term of the agreement, but not to exceed twenty-five years, and no tax pledged by an agreement may be eliminated or modified if it would impair the pledge of the agreement.~~)) (1) An authority may incur general indebtedness for authority purposes, issue bonds, notes, or other evidences of indebtedness not to exceed an amount, together with any outstanding nonvoter approved general obligation debt, equal to three-fourths of one percent of the value of the taxable property within the authority. The maximum term of the obligations may not exceed twenty years. The obligations may pledge benefit charges and may pledge payments to an authority from the state, the federal government, or any fire protection jurisdiction under an interlocal contract. The interlocal contracts pledging revenues and taxes are binding for a term not to exceed twenty-five years, and taxes or other revenue pledged by an interlocal contract may not be eliminated or modified if it would impair the pledge of the contract.

(2) An authority may also issue general obligation bonds for capital purposes not to exceed an amount, together with any outstanding general obligation debt, equal to one and one-half percent of the value of the taxable property within the authority. The authority may provide for the retirement of the bonds by excess property tax levies. The voters of the authority must approve a proposition authorizing the bonds and levies by an affirmative vote of three-fifths of those voting on the proposition at an election. At the election, the total number of persons voting must constitute not less than forty percent of the voters in the authority who voted at the last preceding general

state election. The maximum term of the bonds may not exceed twenty-five years. Elections shall be held as provided in RCW 39.36.050.

(3) Obligations of an authority shall be issued and sold in accordance with chapters 39.46 and 39.50 RCW, as applicable.

Sec. 11. RCW 52.26.140 and 2004 c 129 s 15 are each amended to read as follows:

(1) To carry out the purposes for which a regional fire protection service authority is created, as authorized in the plan and approved by the voters, the governing board of an authority may annually levy the following taxes:

(a) An ad valorem tax on all taxable property located within the authority not to exceed fifty cents per thousand dollars of assessed value;

(b) An ad valorem tax on all property located within the authority not to exceed fifty cents per thousand dollars of assessed value and which will not cause the combined levies to exceed the constitutional or statutory limitations. This levy, or any portion of this levy, may also be made when dollar rates of other taxing units are released by agreement with the other taxing units from their authorized levies; and

(c) An ad valorem tax on all taxable property located within the authority not to exceed fifty cents per thousand dollars of assessed value if the authority has at least one full-time, paid employee, or contracts with another municipal corporation for the services of at least one full-time, paid employee. This levy may be made only if it will not affect dollar rates which other taxing districts may lawfully claim nor cause the combined levies to exceed the constitutional or statutory limitations or both.

(2) Levies in excess of the amounts provided in subsection (1) of this section or in excess of the aggregate dollar rate limitations or both may be made for any authority purpose when so authorized at a special election under RCW 84.52.052. Any such tax when levied must be certified to the proper county officials for the collection of the tax as for other general taxes. The taxes when collected shall be placed in the appropriate authority fund or funds as provided by law, and must be paid out on warrants of the auditor of the county in which all, or the largest portion of, the authority is located, upon authorization of the governing board of the authority.

(3) ((~~Authorities are additionally authorized to incur general indebtedness and to issue general obligation bonds for capital purposes as provided in RCW 52.26.130.~~)) Authorities may provide for the retirement of general indebtedness by excess property tax levies((~~, when the voters of the authority have approved a proposition authorizing such indebtedness and levies by an affirmative vote of three-fifths of those voting on the proposition at such an election, at which election the total number of persons voting shall constitute not less than forty percent of the voters in the authority who voted at the last preceding state general election. Elections must be held as provided in RCW 39.36.050. The maximum term of any bonds issued under the authority of this section may not exceed ten years and must be issued and sold in accordance with chapter 39.46 RCW~~)) as set forth in RCW 52.26.130.

(4) For purposes of this ((~~section~~)) chapter, the term "value of the taxable property" has the same meaning as in RCW 39.36.015.

Sec. 12. RCW 52.26.220 and 2004 c 129 s 28 are each amended to read as follows:

(1) Notwithstanding any other provision in this chapter to the contrary, any benefit charge authorized by this chapter is not effective unless a proposition to impose the benefit charge is approved by a sixty percent majority of the voters of the regional fire protection service authority voting at a general election or at a special election called by the authority for that purpose, held within the authority. A ballot measure that contains an authorization to impose benefit charges and that is approved by the voters pursuant to RCW 52.26.060 meets the proposition approval requirement of this section. An election held under this section must be held not more than twelve months prior to the date on which the first charge is to be assessed. A benefit charge approved at an election expires in six years or fewer as authorized by the voters, unless subsequently reapproved by the voters.

(2) The ballot must be submitted so as to enable the voters favoring the authorization of a regional fire protection service authority benefit charge to vote "Yes" and those opposed to vote "No." The ballot question is as follows:

"Shall . . . . . the regional fire protection service authority composed of (insert the participating fire protection jurisdictions) . . . . . be authorized to impose benefit charges each year for . . . . (insert number of years not to exceed six) years, not to exceed an amount equal to sixty percent of its operating budget, and be prohibited from imposing an additional property tax under RCW 52.26.140(1)(c)?

YES	NO
☐	☐"

(3) Authorities renewing the benefit charge may elect to use the following alternative ballot:

"Shall . . . . . the regional fire protection service authority composed of (insert the participating fire protection jurisdictions) . . . . . be authorized to continue voter-authorized benefit charges each year for . . . . (insert number of years not to exceed six) years, not to exceed an amount equal to sixty percent of its operating budget, and be prohibited from imposing an additional property tax under RCW 52.26.140(1)(c)?

YES	NO
☐	☐""

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Kastama to Substitute House Bill No. 2345.

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

MOTION

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

On page 1, line 1 of the title, after "authorities;" strike the remainder of the title and insert "amending RCW 52.26.020, 52.26.040, 52.26.050, 52.26.060, 52.26.070, 52.26.090, 52.26.100, 52.26.130, 52.26.140, and 52.26.220; and adding new sections to chapter 52.26 RCW."

MOTION

On motion of Senator Kastama, the rules were suspended, Substitute House Bill No. 2345 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator Regala, Senator Thibaudeau was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2345 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2345 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 48

Excused: Senator Thibaudeau - 1

SUBSTITUTE HOUSE BILL NO. 2345 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1439, by Representatives Green, Nixon, Haigh, Upthegrove, Chase and Dunn

Allowing the state purchasing and material control director to receive electronic and web-based bids.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.19.1906 and 2002 c 332 s 4 are each amended to read as follows:

Insofar as practicable, all purchases and sales shall be based on competitive bids, and a formal sealed, electronic, or web-based bid procedure, subject to RCW 43.19.1911, shall be used as standard procedure for all purchases and contracts for purchases and sales executed by the state purchasing and material control director and under the powers granted by RCW 43.19.190 through 43.19.1939. This requirement also applies to purchases and contracts for purchases and sales executed by agencies, including educational institutions, under delegated authority granted in accordance with provisions of RCW 43.19.190 or under RCW 28B.10.029. However, formal sealed, electronic, or web-based competitive bidding is not necessary for:

(1) Emergency purchases made pursuant to RCW 43.19.200 if the sealed bidding procedure would prevent or hinder the emergency from being met appropriately;

(2) Purchases not exceeding thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management: PROVIDED, That the state director of general administration shall establish procedures to assure that purchases made by or on behalf of the various state agencies shall not be made so as to avoid the thirty-five thousand dollar bid limitation, or subsequent bid limitations as calculated by the office of financial management: PROVIDED FURTHER, That the state purchasing and material control director is authorized to reduce the formal sealed bid limits of thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, to a lower dollar amount for purchases by individual state agencies if considered necessary to maintain full disclosure of competitive procurement or otherwise to achieve overall state efficiency and economy in purchasing and material control. Quotations from three thousand dollars to thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, shall be secured from at least three vendors to assure establishment of a competitive price and may be obtained by telephone or written quotations, or both. The agency shall invite at least one quotation each from a certified minority and a certified women-owned vendor who shall otherwise qualify to perform such work. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry. A record of competition for all such purchases from three thousand dollars to thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, shall be documented for audit purposes. Purchases up to three thousand dollars may be made without competitive bids based on buyer experience and knowledge of the market in achieving maximum quality at minimum cost;

(3) Purchases which are clearly and legitimately limited to a single source of supply and purchases involving special facilities, services, or market conditions, in which instances the purchase price may be best established by direct negotiation;

(4) Purchases of insurance and bonds by the risk management division under RCW 43.41.310;

(5) Purchases and contracts for vocational rehabilitation clients of the department of social and health services: PROVIDED, That this exemption is effective only when the state purchasing and material control director, after consultation with the director of the division of vocational rehabilitation and appropriate department of social and health services procurement personnel, declares that such purchases may be best executed through direct negotiation with one or more suppliers in order to expeditiously meet the special needs of the state's vocational rehabilitation clients;

(6) Purchases by universities for hospital operation or biomedical teaching or research purposes and by the state purchasing and material control director, as the agent for state hospitals as defined in RCW 72.23.010, and for health care programs provided in state correctional institutions as defined in RCW 72.65.010(3) and veterans' institutions as defined in RCW 72.36.010 and 72.36.070, made by participating in contracts for materials, supplies, and equipment entered into by nonprofit cooperative hospital group purchasing organizations;

(7) Purchases for resale by institutions of higher education to other than public agencies when such purchases are for the express purpose of supporting instructional programs and may best be executed through direct negotiation with one or more suppliers in order to meet the special needs of the institution;

(8) Purchases by institutions of higher education not exceeding thirty-five thousand dollars: PROVIDED, That for purchases between three thousand dollars and thirty-five thousand dollars quotations shall be secured from at least three vendors to assure establishment of a competitive price and may be obtained by telephone or written quotations, or both. For purchases between three thousand dollars and thirty-five thousand dollars, each institution of higher education shall invite at least one quotation each from a certified minority and a certified women-owned vendor who shall otherwise qualify to

perform such work. A record of competition for all such purchases made from three thousand to thirty-five thousand dollars shall be documented for audit purposes; and

(9) Negotiation of a contract by the department of transportation, valid until June 30, 2001, with registered tow truck operators to provide roving service patrols in one or more Washington state patrol tow zones whereby those registered tow truck operators wishing to participate would cooperatively, with the department of transportation, develop a demonstration project upon terms and conditions negotiated by the parties.

Beginning on July 1, 1995, and on July 1 of each succeeding odd-numbered year, the dollar limits specified in this section shall be adjusted as follows: The office of financial management shall calculate such limits by adjusting the previous biennium's limits by the appropriate federal inflationary index reflecting the rate of inflation for the previous biennium. Such amounts shall be rounded to the nearest one hundred dollars. However, the three thousand dollar figure in subsections (2) and (8) of this section may not be adjusted to exceed five thousand dollars.

Sec. 2. RCW 43.19.1908 and 1994 c 300 s 2 are each amended to read as follows:

Competitive bidding required by RCW 43.19.190 through 43.19.1939 shall be solicited by public notice, and through the sending of notices by mail, electronic transmission, or other means to bidders on the appropriate list of bidders who shall have qualified by application to the division of purchasing. Bids may be solicited by the purchasing division from any source thought to be of advantage to the state. All bids shall be in ((~~writing~~)) written or electronic form and conform to rules of the division of purchasing.

Sec. 3. RCW 43.19.1911 and 2005 c 204 s 5 are each amended to read as follows:

(1) Preservation of the integrity of the competitive bid system dictates that after competitive bids have been opened, award must be made to that responsible bidder who submitted the lowest responsive bid pursuant to subsections (7) and (9) of this section, unless there is a compelling reason to reject all bids and cancel the solicitation.

(2) Every effort shall be made to anticipate changes in a requirement before the date of opening and to provide reasonable notice to all prospective bidders of any resulting modification or cancellation. If, in the opinion of the purchasing agency, division, or department head, it is not possible to provide reasonable notice, the published date for receipt of bids may be postponed and all known bidders notified. This will permit bidders to change their bids and prevent unnecessary exposure of bid prices. In addition, every effort shall be made to include realistic, achievable requirements in a solicitation.

(3) After the opening of bids, a solicitation may not be canceled and resolicited solely because of an increase in requirements for the items being acquired. Award may be made on the initial solicitation and an increase in requirements may be treated as a new acquisition.

(4) A solicitation may be canceled and all bids rejected before award but after bid opening only when, consistent with subsection (1) of this section, the purchasing agency, division, or department head determines in writing that:

(a) Unavailable, inadequate, ambiguous specifications, terms, conditions, or requirements were cited in the solicitation;

(b) Specifications, terms, conditions, or requirements have been revised;

(c) The supplies or services being contracted for are no longer required;

(d) The solicitation did not provide for consideration of all factors of cost to the agency;

(e) Bids received indicate that the needs of the agency can be satisfied by a less expensive article differing from that for which the bids were invited;

(f) All otherwise acceptable bids received are at unreasonable prices or only one bid is received and the agency cannot determine the reasonableness of the bid price;

(g) No responsive bid has been received from a responsible bidder; or

(h) The bid process was not fair or equitable.

(5) The agency, division, or department head may not delegate his or her authority under this section.

(6) After the opening of bids, an agency may not reject all bids and enter into direct negotiations to complete the planned acquisition. However, the agency can enter into negotiations exclusively with the lowest responsible bidder in order to determine if the lowest responsible bid may be improved. Until December 31, 2009, for purchases requiring a formal bid process the agency shall also enter into negotiations with and may consider for award the lowest responsible bidder that is a vendor in good standing, as defined in RCW 43.19.525. An agency shall not use this negotiation opportunity to permit a bidder to change a nonresponsive bid into a responsive bid.

(7) In determining the lowest responsible bidder, the agency shall consider any preferences provided by law to Washington products and vendors and to RCW 43.19.704, and further, may take into consideration the quality of the articles proposed to be supplied, their conformity with specifications, the purposes for which required, and the times of delivery.

(8) Each bid with the name of the bidder shall be entered of record and each record, with the successful bid indicated, shall, after letting of the contract, be open to public inspection. Bid prices shall not be disclosed during electronic or web-based bidding before the letting of the contract.

(9) In determining "lowest responsible bidder", in addition to price, the following elements shall be given consideration:

(a) The ability, capacity, and skill of the bidder to perform the contract or provide the service required;

(b) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;

(c) Whether the bidder can perform the contract within the time specified;

(d) The quality of performance of previous contracts or services;

(e) The previous and existing compliance by the bidder with laws relating to the contract or services;

(f) Such other information as may be secured having a bearing on the decision to award the contract: PROVIDED, That in considering bids for purchase, manufacture, or lease, and in determining the "lowest responsible bidder," whenever there is reason to believe that applying the "life cycle costing" technique to bid evaluation would result in lowest total cost to the state, first consideration shall be given by state purchasing activities to the bid with the lowest life cycle cost which complies with specifications. "Life cycle cost" means the total cost of an item to the state over its estimated useful life, including costs of selection, acquisition, operation,

maintenance, and where applicable, disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of its estimated useful life. The "estimated useful life" of an item means the estimated time from the date of acquisition to the date of replacement or disposal, determined in any reasonable manner. Nothing in this section shall prohibit any state agency, department, board, commission, committee, or other state-level entity from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

NEW SECTION. **Sec. 4.** A new section is added to chapter 39.04 RCW to read as follows:

(1) Any state agency, city with a population greater than one hundred thousand, or counties with a population greater than five hundred thousand executing public works using a competitive bidding process cannot reject all bids after opening unless there is a compelling reason.

(2) Every effort shall be made to anticipate changes in a requirement before the date of opening and to provide reasonable notice to all prospective bidders of any resulting modification or cancellation. If, in the opinion of the director or agency head or the appropriate city or county contract authority, it is not possible to provide reasonable notice, the published date for receipt of bids may be postponed and all known bidders notified. This will permit bidders to change their bids and prevent unnecessary exposure of bid prices. In addition, every effort shall be made to include realistic, achievable requirements in a bid solicitation.

(3) After the opening of bids, a solicitation may not be canceled and resolicited solely because of an increase in requirements for the items being acquired. Award may be made on the initial solicitation and an increase in requirements may be treated as a new acquisition.

(4) A solicitation may be canceled and all bids rejected before award but after bid opening only when, consistent with subsection (1) of this section, the state, city, or county determines in writing that:

(a) Unavailable, inadequate, ambiguous specifications, terms, conditions, or requirements were cited in the solicitation;

(b) Specifications, terms, conditions, or requirements have been revised;

(c) The services being contracted for are no longer required;

(d) The solicitation did not provide for consideration of all factors of cost to the agency, city, or county;

(e) Bids received indicate that the needs of the state, city, or county can be satisfied by a less expensive article differing from that for which the bids were invited;

(f) All otherwise acceptable bids received are at unreasonable prices or only one bid is received and the agency, city, or county cannot determine the reasonableness of the bid price;

(g) No responsive bid has been received from a responsible bidder; or

(h) The bid process was not fair or equitable.

(5) The state agency head or city or county contract authority may not delegate his or her authority under this section.

NEW SECTION. **Sec. 5.** A new section is added to chapter 39.29 RCW to read as follows:

(1) Any agency or institution of state government procuring personal services using a competitive solicitation process cannot reject all solicitations after opening unless there is a compelling reason.

(2) Every effort shall be made to anticipate changes in a requirement before the date of opening and to provide reasonable notice to all prospective bidders of any resulting modification or cancellation. If, in the opinion of the director or agency head, it is not possible to provide reasonable notice, the published date for receipt of bids may be postponed and all known bidders notified. This will permit bidders to change their bids and prevent unnecessary exposure of bid prices. In addition, every effort shall be made to include realistic, achievable requirements in a solicitation.

(3) After the opening of bids, a solicitation may not be canceled and resolicited solely because of an increase in requirements for the items being acquired. Award may be made on the initial solicitation and an increase in requirements may be treated as a new acquisition.

(4) A solicitation may be canceled and all bids rejected before award but after bid opening only when, consistent with subsection (1) of this section, the agency determines in writing that:

(a) Unavailable, inadequate, ambiguous specifications, terms, conditions, or requirements were cited in the solicitation;

(b) Specifications, terms, conditions, or requirements have been revised;

(c) The services being contracted for are no longer required;

(d) The solicitation did not provide for consideration of all factors of cost to the agency;

(e) Bids received indicate that the needs of the agency can be satisfied by a less expensive article differing from that for which the bids were invited;

(f) All otherwise acceptable bids received are at unreasonable prices or only one bid is received and the agency cannot determine the reasonableness of the bid price;

(g) No responsive bid has been received from a responsible bidder; or

(h) The bid process was not fair or equitable.

(5) The agency head may not delegate his or her authority under this section.

NEW SECTION. **Sec. 6.** A new section is added to chapter 43.105 RCW to read as follows:

(1) The board, or other agencies and institutions of state government the board delegates authority to, when purchasing, leasing, renting, or otherwise acquiring, disposing of, or maintaining equipment, proprietary software, or purchased services using a competitive bidding process cannot reject all bids and cancel the solicitation after the bid opening unless there is a compelling reason.

(2) Every effort shall be made to anticipate changes in a requirement before the date of opening and to provide reasonable notice to all prospective bidders of any resulting modification or cancellation. If, in the opinion of the director or purchasing agency head, it is not possible to provide reasonable notice, the published date for receipt of bids may be postponed and all known bidders notified. This will permit bidders to change their bids and prevent unnecessary exposure of bid prices. In addition, every effort shall be made to include realistic, achievable requirements in a solicitation.

(3) After the opening of bids, a solicitation may not be canceled and resolicited solely because of an increase in requirements for the items being acquired. Award may be made

on the initial solicitation and an increase in requirements may be treated as a new acquisition.

(4) A solicitation may be canceled and all bids rejected before award but after bid opening only when, consistent with subsection (1) of this section, the board or purchasing agency, determines in writing that:

(a) Unavailable, inadequate, ambiguous specifications, terms, conditions, or requirements were cited in the solicitation;

(b) Specifications, terms, conditions, or requirements have been revised;

(c) The supplies or services being contracted for are no longer required;

(d) The solicitation did not provide for consideration of all factors of cost to the board or agency;

(e) Bids received indicate that the needs of the board or agency can be satisfied by a less expensive article differing from that for which the bids were invited;

(f) All otherwise acceptable bids received are at unreasonable prices or only one bid is received and the board or agency cannot determine the reasonableness of the bid price;

(g) No responsive bid has been received from a responsible bidder; or

(h) The bid process was not fair or equitable.

(5) The agency head may not delegate his or her authority under this section."

Senators Kastama and Roach spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Government Operations & Elections to House Bill No. 1439.

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

MOTION

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

On page 1, line 1 of the title, after "bidding;" strike the remainder of the title and insert "amending RCW 43.19.1906, 43.19.1908, and 43.19.1911; adding a new section to chapter 39.04 RCW; adding a new section to chapter 39.29 RCW; and adding a new section to chapter 43.105 RCW."

MOTION

On motion of Senator Kastama, the rules were suspended, House Bill No. 1439 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1439 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1439 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 48

Excused: Senator Thibaudeau - 1

HOUSE BILL NO. 1439 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Deccio: "This morning we had the great privilege of honoring one of our members who has showed great courage and determination through difficult circumstances yet there is another one among us who's shown great courage, great patience with a great sense of humor and understanding. I would like for us to give a standing ovation to Senator Darlene Fairley."

PERSONAL PRIVILEGE

Senator Oke: "Senator Fairley, you are my hero. You know that and I don't care if she gets mad at me or not over this one. She's dropped eighty-five pounds and she looks like a doll."

PERSONAL PRIVILEGE

Senator Stevens: "I have admired Darlene for many years. We've served together on committee here some years ago and I have watched as she has been a demonstration to all of us that get up and go attitude that many of us would of given up a long time ago. I so admire her strength, her sense of humor and her courage. It has been an inspiration to me over all these years and the mornings I don't feel like getting up and coming in here which are very, very many, I just think of Darlene Fairley and what she goes through to get here. It gives me the strength to keep going. Thanks Darlene."

PERSONAL PRIVILEGE

Senator Benton: "Well, I too want to commend the Chairman of the Committee that I am the Ranking Member on. I work extremely well with Darlene. We have a good time in that committee. We respect each other's opinions and I do remember the first day of session this year where she said that her ordeal over the interim had caused her to have some hearing problems and to go deaf in her right ear. I always thought she was deaf in her right ear because I set on the right hand side of her and never listened to anything that I said anyway so it was news to me that this was a new development. I always thought there was a problem hearing from that side, from the right side, so that was news to me. But, none-the-less, we get along swell and we work very good together. We work the policies of the issues in that committee and it's a great relationship and I really appreciate her and I appreciate her hard work and I appreciate the mutual respect that we're able to give each other in that committee and I thank you very much Darlene for that."

SECOND READING

HOUSE BILL NO. 3205, by Representatives O'Brien, Clements, Pettigrew, Santos, McDermott, Ericks, Sells, Kilmer, Green and Morrell

Clarifying the authority to apprehend conditionally released persons.

The measure was read the second time.

MOTION

On motion of Senator Hargrove, the rules were suspended, House Bill No. 3205 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 3205.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3205 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Absent: Senator McAuliffe - 1

HOUSE BILL NO. 3205, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2958, by House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives B. Sullivan, Buck, Kessler, Orcutt, Blake, Kretz, Hunt, Chandler, Upthegrove and Dickerson)

Penalizing persons who violate rules concerning the use of nontoxic shot.

The measure was read the second time.

MOTION

On motion of Senator Jacobsen, the rules were suspended, Substitute House Bill No. 2958 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Jacobsen spoke in favor of passage of the bill.

Senator Morton spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2958.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2958 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 10; Absent, 0; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Sheldon, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 39

Voting nay: Senators Carrell, Deccio, Delvin, Hewitt, Honeyford, McCaslin, Morton, Mulliken, Schoesler and Stevens - 10

SUBSTITUTE HOUSE BILL NO. 2958, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2426, by House Committee on Technology, Energy & Communications (originally sponsored by Representative Morris)

Modifying utilities and transportation commission provisions.

The measure was read the second time.

MOTION

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

On page 3, line 24, after "commissioners" insert ", and with the consent of the affected parties,"

Senator Honeyford spoke in favor of adoption of the amendment.

Senators Kline and Johnson spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 3, line 24 to Substitute House Bill No. 2426.

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

MOTION

On motion of Senator Poulsen, the rules were suspended, Substitute House Bill No. 2426 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Poulsen spoke in favor of passage of the bill.

Senator Morton spoke against passage of the bill.

MOTION

On motion of Senator Weinstein, Senator Rockefeller was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2426.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2426 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 9; Absent, 0; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Oke, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 40

Voting nay: Senators Delvin, Honeyford, McCaslin, Morton, Mulliken, Parlette, Pflug, Schmidt and Schoesler - 9

SUBSTITUTE HOUSE BILL NO. 2426, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, the Senate reverted to the first order of business.

REPORTS OF STANDING COMMITTEES

March 3, 2006

SB 6793 Prime Sponsor, Hargrove: Specifying roles and responsibilities with respect to the treatment of persons with mental disorders. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 6793 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Doumit, Vice Chair, Operating Budget; Brandland, Kohl-Welles, Pflug, Pridemore, Rasmussen, Regala, Rockefeller and Thibaudeau

Passed to Committee on Rules for second reading.

March 3, 2006

E2SHB 2575 Prime Sponsor, Committee on Appropriations: Establishing a health technology assessment program. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Doumit, Vice Chair, Operating Budget; Brandland, Kohl-Welles, Pflug, Pridemore, Rasmussen, Regala, Rockefeller, Schoesler and Thibaudeau

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, the rules were suspended and the measures listed on the Standing Committee Report were placed on the second reading calendar.

MOTION

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

SECOND READING

HOUSE BILL NO. 2477, by Representatives Green, Nixon, Haigh, Hunt, Moeller and Rodne

Making technical changes to election laws.

The measure was read the second time.

MOTION

On motion of Senator Kastama, the rules were suspended, House Bill No. 2477 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2477.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2477 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Absent: Senator Eide - 1

HOUSE BILL NO. 2477, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2537, by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Condotta, McCoy, Hudgins and B. Sullivan)

Establishing a pilot program to allow employers to assist employees in completing applications for industrial insurance benefits.

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 2537 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.

POINT OF INQUIRY

Senator Parlette: "Would the Senator from the Thirty-Sixth District yield to a question? Senator Kohl-Welles, what is the Department of Labor & Industries going to require of employers who volunteer for the employer reporting pilot project?"

Senator Kohl-Welles: "Based upon the letter, which is before you on your desk, that I mentioned, the department intends to establish requirements that employers meet certain minimum criteria such as, maintaining their labor & industries account in good standing, having an acceptable WISHA citation record and being in business for a specified period of time."

Senator Parlette: "Does Labor & Industry plan to enter into any agreements with the employers who volunteer for the pilot project?"

Senator Kohl-Welles: "Yes, they do. The department plans to enter into written agreements with each employer who participates in the pilot. The agreements would include the following requirements: that the employers provide all workers with written materials to explain the pilots and the rights of workers under the workers comp laws; that employers provide the department with logs of their on the job incidents; that they also provide workers with written confirmation that the worker has initiated the filing of the workers comp claim; through the employer; that employers agree to meet the department's expectations for prompt filing of the workers comp claim and that they assist the department in periodic surveys of employees; and, also, that employers provide information needed by the department to complete the report to the legislature."

Senators Parlette and Honeyford spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2537.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2537 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 2; Excused, 0.

Voting yea: Senators Benson, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Voting nay: Senators McCaslin and Morton - 2

Absent: Senators Benton and McAuliffe - 2

SUBSTITUTE HOUSE BILL NO. 2537, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2695, by Representatives Haigh, Sump and McDermott

Modifying absentee or provisional ballot notice requirements.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 29A.60.165 and 2005 c 243 s 8 are each amended to read as follows:

(1) If the voter neglects to sign the outside envelope of an absentee or provisional ballot, the auditor shall notify the voter by ((~~telephone~~)) first class mail and advise the voter of the correct procedures for completing the unsigned affidavit. ((~~If the auditor is not able to provide the information personally to the voter by telephone, then the voter must be contacted by first class mail and advised of the correct procedures for completing the unsigned affidavit. Leaving a voice mail message for the voter is not to be considered as personally contacting the voter.~~)) If the absentee ballot is received within three business days of the final meeting of the canvassing board, or the voter has been notified by first class mail and has not responded at least three business days before the final meeting of the canvassing board, then the auditor shall attempt to notify the voter by telephone, using the voter registration record information. In order for the ballot to be counted, the voter must either:

(a) Appear in person and sign the envelope no later than the day before the certification of the primary or election; or

(b) Sign a copy of the envelope provided by the auditor, and return it to the auditor no later than the day before the certification of the primary or election.

(2)(a) If the handwriting of the signature on an absentee or provisional ballot envelope is not the same as the handwriting of the signature on the registration file, the auditor shall notify the voter by ((~~telephone~~)) first class mail, enclosing a voter registration form, and advise the voter of the correct procedures for updating his or her signature on the voter registration file. ((~~If the auditor is not able to provide the information personally to the voter by telephone, then the voter must be contacted by first class mail and advised of the correct procedures for completing the unsigned affidavit. Leaving a voice mail message for the voter is not to be considered as personally contacting the voter.~~)) If the absentee ballot is received within three business days of the final meeting of the canvassing board, or the voter has been notified by first class mail and has not responded at least three business days before the final meeting of the canvassing board, then the auditor shall attempt to notify the voter by telephone, using the voter registration record information. In order for the ballot to be counted, the voter must ((~~either:~~

~~(i) Appear in person and sign~~)) provide a new registration form no later than the day before the certification of the primary or election((~~; or~~

~~(ii) Sign a copy of the affidavit provided by the auditor and return it to the auditor no later than the day before the certification of the primary or election. If the signature on the copy of the affidavit does not match the signature on file, the voter must appear in person and sign a new registration form no later than the day before the certification of the primary or election in order for the ballot to be counted~~)).

(b) If the signature on an absentee or provisional ballot envelope is not the same as the signature on the registration file because the name is different, the ballot may be counted as long as the handwriting is clearly the same. The auditor shall send

the voter a change-of-name form under RCW 29A.08.440 and direct the voter to complete the form.

(c) If the signature on an absentee or provisional ballot envelope is not the same as the signature on the registration file because the voter used initials or a common nickname, the ballot may be counted as long as the surname and handwriting are clearly the same.

(3) A voter may not cure a missing or mismatched signature for purposes of counting the ballot in a recount.

(4) A record must be kept of all ballots with missing and mismatched signatures. The record must contain the date on which the voter was contacted or the notice was mailed, as well as the date on which the voter signed the envelope, a copy of the envelope, a new registration form, or a change-of-name form. That record is a public record under chapter 42.17 RCW and may be disclosed to interested parties on written request."

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

POINT OF INQUIRY

Senator Benton: "Would Senator Kastama yield to a question? Senator Kastama, we've had a number of different versions of this concept and we made a lot of changes to it. I need just a little clarification. Does this bill take away the requirement that the voter in question turn up in person down at the Auditor's office?"

Senator Kastama: "Yes it does."

Senator Benton: "So they don't have to go down there anymore. What do they verify it by phone or…..?"

Senator Kastama: "By mail. They have to as if they were reregistering and this was a request by another member on our committee who lives in the Islands and had a personal incident with their family member."

Senator Benton: "So they no longer go down in person to show up?"

Senator Kastama: "Correct."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Government Operations & Elections to Substitute House Bill No. 2695.

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

MOTION

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

On page 1, line 2 of the title, after "requirements;" strike the remainder of the title and insert "and amending RCW 29A.60.165."

MOTION

On motion of Senator Kastama, the rules were suspended, Substitute House Bill No. 2695 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

POINT OF INQUIRY

Senator Roach: "Would the Senator from the Twenty-Sixth District yield to a question? Many of you know that last elections cycle, one of my children had a ballot with a funny signature. He didn't sign his name right, you know, so it didn't match up. He got a phone call from King County Elections saying, you know, Is this really you?' So, my understanding of the bill might be that we're changing that. I prefer that there be every effort made and made as soon as possible. So, how does this bill affect what existing law is and the situation today as it is where a voter is called immediately and told that there's a potential that their signature will not be validated. Could you address that please?"

Senator Kastama: "Yes, it right now it will be done by, actually the mail is how they will notify them. If they can not be notified by mail it's then at that point they go to by phone call so it's kind of a combination of both but they start out, however, by mail. I believe the amendment that we put on this was by request. It was my understanding it was going to address a need that you had and I hope that that does."

Senator Johnson spoke against the passage of the bill.

MOTION

On motion of Senator Weinstein, Senator Pridemore was excused.

Senators Haugen and Kohl-Welles spoke in favor of passage of the bill.

Senator Roach spoke against passage of the bill.

MOTION

Senator Eide demanded that the previous question be put.

The President declared that at least two additional senators joined the demand and the demand was sustained.

The President declared the question before the Senate to be the motion of Senator Eide, "Shall the main question be now put?"

The motion by Senator Eide that the previous question be put was sustained by voice vote.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2695 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2695 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 35; Nays, 14; Absent, 0; Excused, 0.

Voting yea: Senators Benson, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Oke, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schmidt, Sheldon, Shin, Spanel, Swecker, Thibaudeau and Weinstein - 35

Voting nay: Senators Benton, Esser, Finkbeiner, Hewitt, Honeyford, Johnson, Morton, Mulliken, Parlette, Pflug, Roach, Schoesler, Stevens and Zarelli - 14

SUBSTITUTE HOUSE BILL NO. 2695 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED HOUSE BILL NO. 3261, by Representatives O'Brien, Rodne, Dickerson, Clements, Haigh, Simpson, Pearson, McDonald, Ericks, Kilmer and Williams

Strengthening the review process by the indeterminate sentence review board.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9.95.003 and 1997 c 350 s 2 are each amended to read as follows:

The board shall consist of a ((~~chairman~~)) chair, a vice-chair, and ((~~two~~)) three other members, each of whom shall be appointed by the governor with the consent of the senate. Each member shall hold office for a term of five years, and until his or her successor is appointed and qualified. The terms shall expire on April 15th of the expiration year. Vacancies in the membership of the board shall be filled by appointment by the governor with the consent of the senate. In the event of the inability of any member to act, the governor shall appoint some competent person to act in his stead during the continuance of such inability. The members shall not be removable during their respective terms except for cause determined by the superior court of Thurston county. The governor in appointing the members shall designate one of them to serve as chairman at the governor's pleasure.

The members of the board and its officers and employees shall not engage in any other business or profession or hold any other public office without the prior approval of the executive ethics board indicating compliance with RCW 42.52.020, 42.52.030, 42.52.040 and 42.52.120; nor shall they, at the time of appointment or employment or during their incumbency, serve as the representative of any political party on an executive committee or other governing body thereof, or as an executive officer or employee of any political committee or association. The members of the board shall each severally receive salaries fixed by the governor in accordance with the provisions of RCW 43.03.040, and in addition shall receive travel expenses incurred in the discharge of their official duties in accordance with RCW 43.03.050 and 43.03.060.

The board may employ, and fix, with the approval of the governor, the compensation of and prescribe the duties of a secretary and such officers, employees, and assistants as may be necessary, and provide necessary quarters, supplies, and equipment.

Sec. 2. RCW 9.95.420 and 2002 c 174 s 1 are each amended to read as follows:

(1)(a) Except as provided in (c) of this subsection, before the expiration of the minimum term, as part of the end of sentence review process under RCW 72.09.340, 72.09.345, and where appropriate, 72.09.370, the department shall conduct, and the offender shall participate in, an examination of the offender, incorporating methodologies that are recognized by experts in the prediction of sexual dangerousness, and including a prediction of the probability that the offender will engage in sex offenses if released.

(b) The board may contract for an additional, independent examination, subject to the standards in this section.

(c) If at the time the sentence is imposed by the superior court the offender's minimum term has expired or will expire within one hundred twenty days of the sentencing hearing, the department shall conduct, within ninety days of the offender's arrival at a department of corrections facility, and the offender shall participate in, an examination of the offender, incorporating methodologies that are recognized by experts in the prediction of sexual dangerousness, and including a prediction of the probability that the offender will engage in sex offenses if released.

(2) The board shall impose the conditions and instructions provided for in RCW 9.94A.720. The board shall consider the department's recommendations and may impose conditions in addition to those recommended by the department. The board may impose or modify conditions of community custody following notice to the offender.

(3)(a) Except as provided in (b) of this subsection, no later than ninety days before expiration of the minimum term, but after the board receives the results from the end of sentence review process and the recommendations for additional or modified conditions of community custody from the department, the board shall conduct a hearing to determine whether it is more likely than not that the offender will engage in sex offenses if released on conditions to be set by the board. The board may consider an offender's failure to participate in an evaluation under subsection (1) of this section in determining whether to release the offender. The board shall order the offender released, under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the offender will commit sex offenses if released. If the board does not order the offender released, the board shall establish a new minimum term, not to exceed an additional two years.

(b) If at the time the offender's minimum term has expired or will expire within one hundred twenty days of the offender's arrival at a department of correction's facility, then no later than one hundred twenty days after the offender's arrival at a department of corrections facility, but after the board receives the results from the end of sentence review process and the recommendations for additional or modified conditions of community custody from the department, the board shall conduct a hearing to determine whether it is more likely than not that the offender will engage in sex offenses if released on conditions to be set by the board. The board may consider an offender's failure to participate in an evaluation under subsection (1) of this section in determining whether to release the offender. The board shall order the offender released, under such affirmative and other conditions as the board determines

appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the offender will commit sex offenses if released. If the board does not order the offender released, the board shall establish a new minimum term, not to exceed an additional two years.

(4) In a hearing conducted under subsection (3) of this section, the board shall provide opportunities for the victims of any crimes for which the offender has been convicted to present oral, video, written, or in-person testimony to the board. The procedures for victim input shall be developed by rule. To facilitate victim involvement, county prosecutor's offices shall ensure that any victim impact statements and known contact information for victims of record are forwarded as part of the judgment and sentence.

NEW SECTION. **Sec. 3.** Section 1 of this act takes effect April 15, 2007. Section 2 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed House Bill No. 3261.

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

MOTION

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

On page 1, line 4 of the title, after "9.94A.712;" strike the remainder of the title and insert "amending RCW 9.95.003 and 9.95.420; providing an effective date; and declaring an emergency."

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed House Bill No. 3261 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 3261 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 3261 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 49

ENGROSSED HOUSE BILL NO. 3261 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2654, by House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Darneille, Strow, O'Brien, Lantz, Rodne, Simpson, Clibborn, McDonald, Conway, Miloscia, B. Sullivan and Ericks)

Prohibiting sex offender treatment by treatment providers who are sex offenders. Revised for 1st Substitute: Prohibiting certification of sex offenders as sex offender treatment providers.

The measure was read the second time.

MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 2654 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

MOTION

On motion of Senator Mulliken, Senator Hewitt was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2654.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2654 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Absent: Senator Pridemore - 1

Excused: Senator Hewitt - 1

SUBSTITUTE HOUSE BILL NO. 2654, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2575, by House Committee on Appropriations (originally sponsored by Representatives Cody, Morrell and Moeller)

Establishing a health technology assessment program.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 70.14 RCW to read as follows:

DEFINITIONS. The definitions in this section apply throughout sections 2 through 7 of this act unless the context clearly requires otherwise.

(1) "Administrator" means the administrator of the Washington state health care authority under chapter 41.05 RCW.

(2) "Advisory group" means a group established under section 4(2)(c) of this act.

(3) "Committee" means the health technology clinical committee established under section 2 of this act.

(4) "Coverage determination" means a determination of the circumstances, if any, under which a health technology will be included as a covered benefit in a state purchased health care program.

(5) "Health technology" means medical and surgical devices and procedures, medical equipment, and diagnostic tests. Health technologies does not include prescription drugs governed by RCW 70.14.050.

(6) "Participating agency" means the department of social and health services, the state health care authority, and the department of labor and industries.

(7) "Reimbursement determination" means a determination to provide or deny reimbursement for a health technology included as a covered benefit in a specific circumstance for an individual patient who is eligible to receive health care services from the state purchased health care program making the determination.

NEW SECTION. **Sec. 2** A new section is added to chapter 70.14 RCW to read as follows:

HEALTH TECHNOLOGY COMMITTEE ESTABLISHED. (1) A health technology clinical committee is established, to include the following eleven members appointed by the administrator in consultation with participating state agencies:

(a) Six practicing physicians licensed under chapter 18.57 or 18.71 RCW; and

(b) Five other practicing licensed health professionals who use health technology in their scope of practice.

At least two members of the committee must have professional experience treating women, children, elderly persons, and people with diverse ethnic and racial backgrounds. (2) Members of the committee:

(a) Shall not contract with or be employed by a health technology manufacturer or a participating agency during their term or for eighteen months before their appointment. As a condition of appointment, each person shall agree to the terms and conditions imposed by the administrator regarding conflicts of interest;

(b) Are immune from civil liability for any official acts performed in good faith as members of the committee; and

(c) Shall be compensated for participation in the work of the committee in accordance with a personal services contract to be executed after appointment and before commencement of activities related to the work of the committee.

(3) Meetings of the committee and any advisory group are subject to chapter 42.30 RCW, the open public meetings act, including RCW 42.30.110(1)(l), which authorizes an executive session during a regular or special meeting to consider proprietary or confidential nonpublished information.

(4) Neither the committee nor any advisory group is an agency for purposes of chapter 34.05 RCW.

(5) The health care authority shall provide administrative support to the committee and any advisory group, and may adopt rules governing their operation.

NEW SECTION. **Sec. 3** A new section is added to chapter 70.14 RCW to read as follows:

TECHNOLOGY SELECTION AND ASSESSMENT. (1) The administrator, in consultation with participating agencies and the committee, shall select the health technologies to be reviewed by the committee under section 4 of this act. Up to six may be selected for review in the first year after the effective date of this act, and up to eight may be selected in the second year after the effective date of this act. In making the selection, priority shall be given to any technology for which:

(a) There are concerns about its safety, efficacy, or cost-effectiveness, especially relative to existing alternatives, or significant variations in its use;

(b) Actual or expected state expenditures are high, due to demand for the technology, its cost, or both; and

(c) There is adequate evidence available to conduct the comlete review.

(2) A health technology for which the committee has made a determination under section 4 of this act shall be considered for rereview at least once every eighteen months, beginning the date the determination is made. The administrator, in consultation with participating agencies and the committee, shall select the technology for rereview if he or she decides that evidence has since become available that could change a previous determination. Upon rereview, consideration shall be given only to evidence made available since the previous determination.

(3) Pursuant to a petition submitted by an interested party, the health technology clinical committee may select health technologies for review that have not otherwise been selected by the administrator under subsection (1) or (2) of this section.

(4) Upon the selection of a health technology for review, the administrator shall contract for a systematic evidence-based assessment of the technology's safety, efficacy, and cost-effectiveness. The contract shall:

(a) Be with an evidence-based practice center designated as such by the federal agency for health care research and quality, or other appropriate entity;

(b) Require the assessment be initiated no sooner than thirty days after notice of the selection of the health technology for review is posted on the internet under section 7 of this act;

(c) Require, in addition to other information considered as part of the assessment, consideration of: (i) Safety, health outcome, and cost data submitted by a participating agency; and (ii) evidence submitted by any interested party; and

(d) Require the assessment to: (i) Give the greatest weight to the evidence determined, based on objective indicators, to be the most valid and reliable, considering the nature and source of the evidence, the empirical characteristic of the studies or trials upon which the evidence is based, and the consistency of the outcome with comparable studies; and (ii) take into account any

unique impacts of the technology on specific populations based upon factors such as sex, age, ethnicity, race, or disability.

NEW SECTION. **Sec. 4** A new section is added to chapter 70.14 RCW to read as follows:

HEALTH TECHNOLOGY COMMITTEE DETERMINATIONS. (1) The committee shall determine, for each health technology selected for review under section 3 of this act: (a) The conditions, if any, under which the health technology will be included as a covered benefit in health care programs of participating agencies; and (b) if covered, the criteria which the participating agency administering the program must use to decide whether the technology is medically necessary, or proper and necessary treatment.

(2) In making a determination under subsection (1) of this section, the committee:

(a) Shall consider, in an open and transparent process, evidence regarding the safety, efficacy, and cost-effectiveness of the technology as set forth in the systematic assessment conducted under section 3(4) of this act;

(b) Shall provide an opportunity for public comment; and

(c) May establish ad hoc temporary advisory groups if specialized expertise is needed to review a particular health technology or group of health technologies, or to seek input from enrollees or clients of state purchased health care programs. Advisory group members are immune from civil liability for any official act performed in good faith as a member of the group. As a condition of appointment, each person shall agree to the terms and conditions imposed by the administrator regarding conflicts of interest.

(3) Determinations of the committee under subsection (1) of this section shall be consistent with decisions made under the federal medicare program and in expert treatment guidelines, including those from specialty physician organizations and patient advocacy organizations, unless the committee concludes, based on its review of the systematic assessment, that substantial evidence regarding the safety, efficacy, and cost-effectiveness of the technology supports a contrary determination.

NEW SECTION. **Sec. 5** A new section is added to chapter 70.14 RCW to read as follows:

COMPLIANCE BY STATE AGENCIES. (1) A participating agency shall comply with a determination of the committee under section 4 of this act unless:

(a) The determination conflicts with an applicable federal statute or regulation, or applicable state statute; or

(b) Reimbursement is provided under an agency policy regarding experimental or investigational treatment, services under a clinical investigation approved by an institutional review board, or health technologies that have a humanitarian device exemption from the federal food and drug administration. (2) For a health technology not selected for review under section 3 of this act, a participating agency may use its existing statutory and administrative authority to make coverage and reimbursement determinations. Such determinations shall be shared among agencies, with a goal of maximizing each agency's understanding of the basis for the other's decisions and providing opportunities for agency collaboration.

(3) A health technology not included as a covered benefit under a state purchased health care program pursuant to a determination of the health technology clinical committee under section 4 of this act, or for which a condition of coverage established by the committee is not met, shall not be subject to a determination in the case of an individual patient as to whether it is medically necessary, or proper and necessary treatment.

(4) Nothing in this act diminishes an individual's right under existing law to appeal an action or decision of a participating agency regarding a state purchased health care program. Appeals shall be governed by state and federal law applicable to participating agency decisions.

NEW SECTION. **Sec. 6** A new section is added to chapter 70.14 RCW to read as follows:

APPEAL PROCESS. The administrator shall establish an open, independent, transparent, and timely process to enable patients, providers, and other stakeholders to appeal the determinations of the health technology clinical committee made under section 4 of this act.

NEW SECTION. **Sec. 7** A new section is added to chapter 70.14 RCW to read as follows:

PUBLIC NOTICE. (1) The administrator shall develop a centralized, internet-based communication tool that provides, at a minimum:

(a) Notification when a health technology is selected for review under section 3 of this act, indicating when the review will be initiated and how an interested party may submit evidence, or provide public comment, for consideration during the review;

(b) Notification of any determination made by the committee under section 4(1) of this act, its effective date, and an explanation of the basis for the determination; and

(c) Access to the systematic assessment completed under section 3(4) of this act, and reports completed under subsection (2) of this section.

(2) Participating agencies shall develop methods to report on the implementation of this section and sections 1 through 6 of this act with respect to health care outcomes, frequency of exceptions, cost outcomes, and other matters deemed appropriate by the administrator.

Sec. 8 RCW 41.05.013 and 2005 c 462 s 3 are each amended to read as follows:

(1) The authority shall coordinate state agency efforts to develop and implement uniform policies across state purchased health care programs that will ensure prudent, cost-effective health services purchasing, maximize efficiencies in administration of state purchased health care programs, improve the quality of care provided through state purchased health care programs, and reduce administrative burdens on health care providers participating in state purchased health care programs. The policies adopted should be based, to the extent possible, upon the best available scientific and medical evidence and shall endeavor to address:

(a) Methods of formal assessment, such as a health technology assessment under sections 1 through 7 of this act. Consideration of the best available scientific evidence does not preclude consideration of experimental or investigational treatment or services under a clinical investigation approved by an institutional review board;

(b) Monitoring of health outcomes, adverse events, quality, and cost-effectiveness of health services;

(c) Development of a common definition of medical necessity; and

(d) Exploration of common strategies for disease management and demand management programs, including asthma, diabetes, heart disease, and similar common chronic diseases. Strategies to be explored include individual asthma

management plans. On January 1, 2007, and January 1, 2009, the authority shall issue a status report to the legislature summarizing any results it attains in exploring and coordinating strategies for asthma, diabetes, heart disease, and other chronic diseases.

(2) The administrator may invite health care provider organizations, carriers, other health care purchasers, and consumers to participate in efforts undertaken under this section. (3) For the purposes of this section "best available scientific and medical evidence" means the best available clinical evidence derived from systematic research.

NEW SECTION. **Sec. 9** A new section is added to chapter 70.14 RCW to read as follows:

Sections 1 through 7 of this act and RCW 41.05.013 do not apply to state purchased health care services that are purchased from or through health carriers as defined in RCW 48.43.005.

NEW SECTION. **Sec. 10** Captions used in this act are not any part of the law.

NEW SECTION. **Sec. 11** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state."

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Second Substitute House Bill No. 2575.

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

MOTION

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

On page 1, line 2 of the title, after "program;" strike the remainder of the title and insert "amending RCW 41.05.013; adding new sections to chapter 70.14 RCW; and creating new sections."

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Second Substitute House Bill No. 2575 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Deccio spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2575 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2575 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Absent: Senator McAuliffe - 1

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2575 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED HOUSE BILL NO. 3278, by Representatives Conway and Dickerson

Making adjustments to the unemployment insurance system. (REVISED FOR ENGROSSED: Extending the deadline for the report by the joint legislative task force on unemployment insurance benefit equity.)

The measure was read the second time.

MOTION

Senator Kohl-Welles moved that the following striking amendment by Senators Kohl-Welles and Parlette be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 50.20.050 and 2003 2nd sp.s. c 4 s 4 are each reenacted to read as follows:

(1) With respect to claims that have an effective date before January 4, 2004:

(a) An individual shall be disqualified from benefits beginning with the first day of the calendar week in which he or she has left work voluntarily without good cause and thereafter for seven calendar weeks and until he or she has obtained bona fide work in employment covered by this title and earned wages in that employment equal to seven times his or her weekly benefit amount.

The disqualification shall continue if the work obtained is a mere sham to qualify for benefits and is not bona fide work. In determining whether work is of a bona fide nature, the commissioner shall consider factors including but not limited to the following:

(i) The duration of the work;

(ii) The extent of direction and control by the employer over the work; and

(iii) The level of skill required for the work in light of the individual's training and experience.

(b) An individual shall not be considered to have left work voluntarily without good cause when:

(i) He or she has left work to accept a bona fide offer of bona fide work as described in (a) of this subsection;

(ii) The separation was because of the illness or disability of the claimant or the death, illness, or disability of a member of the claimant's immediate family if the claimant took all reasonable precautions, in accordance with any regulations that the commissioner may prescribe, to protect his or her employment status by having promptly notified the employer of the reason for the absence and by having promptly requested reemployment when again able to assume employment: PROVIDED, That these precautions need not have been taken when they would have been a futile act, including those

instances when the futility of the act was a result of a recognized labor/management dispatch system;

(iii) He or she has left work to relocate for the spouse's employment that is due to an employer-initiated mandatory transfer that is outside the existing labor market area if the claimant remained employed as long as was reasonable prior to the move; or

(iv) The separation was necessary to protect the claimant or the claimant's immediate family members from domestic violence, as defined in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110.

(c) In determining under this subsection whether an individual has left work voluntarily without good cause, the commissioner shall only consider work-connected factors such as the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness for the work, the individual's ability to perform the work, and such other work connected factors as the commissioner may deem pertinent, including state and national emergencies. Good cause shall not be established for voluntarily leaving work because of its distance from an individual's residence where the distance was known to the individual at the time he or she accepted the employment and where, in the judgment of the department, the distance is customarily traveled by workers in the individual's job classification and labor market, nor because of any other significant work factor which was generally known and present at the time he or she accepted employment, unless the related circumstances have so changed as to amount to a substantial involuntary deterioration of the work factor or unless the commissioner determines that other related circumstances would work an unreasonable hardship on the individual were he or she required to continue in the employment.

(d) Subsection (1)(a) and (c) of this section shall not apply to an individual whose marital status or domestic responsibilities cause him or her to leave employment. Such an individual shall not be eligible for unemployment insurance benefits beginning with the first day of the calendar week in which he or she left work and thereafter for seven calendar weeks and until he or she has requalified, either by obtaining bona fide work in employment covered by this title and earning wages in that employment equal to seven times his or her weekly benefit amount or by reporting in person to the department during ten different calendar weeks and certifying on each occasion that he or she is ready, able, and willing to immediately accept any suitable work which may be offered, is actively seeking work pursuant to customary trade practices, and is utilizing such employment counseling and placement services as are available through the department. This subsection does not apply to individuals covered by (b)(ii) or (iii) of this subsection.

(2) With respect to claims that have an effective date on or after January 4, 2004:

(a) An individual shall be disqualified from benefits beginning with the first day of the calendar week in which he or she has left work voluntarily without good cause and thereafter for seven calendar weeks and until he or she has obtained bona fide work in employment covered by this title and earned wages in that employment equal to seven times his or her weekly benefit amount.

The disqualification shall continue if the work obtained is a mere sham to qualify for benefits and is not bona fide work. In determining whether work is of a bona fide nature, the commissioner shall consider factors including but not limited to the following:

(i) The duration of the work;

(ii) The extent of direction and control by the employer over the work; and

(iii) The level of skill required for the work in light of the individual's training and experience.

(b) An individual is not disqualified from benefits under (a) of this subsection when:

(i) He or she has left work to accept a bona fide offer of bona fide work as described in (a) of this subsection;

(ii) The separation was necessary because of the illness or disability of the claimant or the death, illness, or disability of a member of the claimant's immediate family if:

(A) The claimant pursued all reasonable alternatives to preserve his or her employment status by requesting a leave of absence, by having promptly notified the employer of the reason for the absence, and by having promptly requested reemployment when again able to assume employment. These alternatives need not be pursued, however, when they would have been a futile act, including those instances when the futility of the act was a result of a recognized labor/management dispatch system; and

(B) The claimant terminated his or her employment status, and is not entitled to be reinstated to the same position or a comparable or similar position;

(iii) He or she: (A) Left work to relocate for the spouse's employment that, due to a mandatory military transfer: (I) Is outside the existing labor market area; and (II) is in Washington or another state that, pursuant to statute, does not consider such an individual to have left work voluntarily without good cause; and (B) remained employed as long as was reasonable prior to the move;

(iv) The separation was necessary to protect the claimant or the claimant's immediate family members from domestic violence, as defined in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;

(v) The individual's usual compensation was reduced by twenty-five percent or more;

(vi) The individual's usual hours were reduced by twenty-five percent or more;

(vii) The individual's worksite changed, such change caused a material increase in distance or difficulty of travel, and, after the change, the commute was greater than is customary for workers in the individual's job classification and labor market;

(viii) The individual's worksite safety deteriorated, the individual reported such safety deterioration to the employer, and the employer failed to correct the hazards within a reasonable period of time;

(ix) The individual left work because of illegal activities in the individual's worksite, the individual reported such activities to the employer, and the employer failed to end such activities within a reasonable period of time; or

(x) The individual's usual work was changed to work that violates the individual's religious convictions or sincere moral beliefs.

NEW SECTION. **Sec. 2.** Section 1 of this act applies retroactively to claims that have an effective date on or after January 4, 2004."

Senators Kohl-Welles and Parlette spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kohl-Welles and Parlette to Engrossed House Bill No. 3278.

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

MOTION

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

On page 1, line 2 of the title, after "equity;" strike the remainder of the title and insert "reenacting RCW 50.20.050; and creating a new section."

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed House Bill No. 3278 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 3278 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 3278 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 49

ENGROSSED HOUSE BILL NO. 3278 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Engrossed House Bill No. 3278 was immediately transmitted to the House of Representatives.

SECOND READING

HOUSE BILL NO. 3048, by Representatives Moeller and Darneille

Changing the effective date of the uniform interstate family support act.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 3048 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 3048.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3048 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 2; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Absent: Senators Delvin and McAuliffe - 2

HOUSE BILL NO. 3048, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2917, by House Committee on Local Government (originally sponsored by Representatives P. Sullivan, Kristiansen, Simpson, Linville, Blake and Ericks)

Identifying accessory uses on agricultural lands.

The measure was read the second time.

MOTION

Senator Rasmussen moved that the following committee striking amendment by the Committee on Agriculture & Rural Economic Development be adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 36.70A.177 and 2004 c 207 s 1 are each amended to read as follows:

(1) A county or a city may use a variety of innovative zoning techniques in areas designated as agricultural lands of long-term commercial significance under RCW 36.70A.170. The innovative zoning techniques should be designed to conserve agricultural lands and encourage the agricultural economy. Except as provided in subsection (3) of this section, a county or city should encourage nonagricultural uses to be limited to lands with poor soils or otherwise not suitable for agricultural purposes.

(2) Innovative zoning techniques a county or city may consider include, but are not limited to:

(a) Agricultural zoning, which limits the density of development and restricts or prohibits nonfarm uses of agricultural land and may allow accessory uses, including nonagricultural-related activities, that support, promote, or sustain agricultural operations and production, as provided in subsection (3) of this section;

(b) Cluster zoning, which allows new development on one portion of the land, leaving the remainder in agricultural or open space uses;

(c) Large lot zoning, which establishes as a minimum lot size the amount of land necessary to achieve a successful farming practice;

(d) Quarter/quarter zoning, which permits one residential dwelling on a one-acre minimum lot for each one-sixteenth of a section of land; and

(e) Sliding scale zoning, which allows the number of lots for single-family residential purposes with a minimum lot size of one acre to increase inversely as the size of the total acreage increases.

(3)((~~(a)~~)) Accessory uses allowed under subsection (2)(a) of this section shall comply with the following:

((~~(i)~~)) (a) Accessory uses shall be located, designed, and operated so as ((~~not~~)) to ((~~interfere with natural resource land uses and shall be accessory to the growing of crops or raising of~~

~~animals~~)) minimize interference with agricultural land and shall comply with the requirements of this chapter;

((~~(ii)~~)) (b) Accessory ((~~commercial or retail~~)) uses ((~~shall predominately produce, store, or sell regionally produced~~)) may include:

(i) Commercial or retail activities related to agriculture, including but not limited to the storage, distribution, and marketing of agricultural products from one or more producers, ((~~products derived from regional agricultural production,~~)) agriculturally related experiences, or ((~~products produced on-site. Accessory commercial and retail uses shall offer for sale predominantly products or services produced on-site~~)) the production, marketing, and distribution of value-added agricultural products, including support services that facilitate these activities; and

((~~(iii) Accessory uses~~)) (ii) Nonagricultural-related activities as long as they are compatible in size, scale, and intensity with, will not interfere with, and will support the continuation of, the agricultural use of the property and neighboring properties;

(c) Accessory uses may operate out of existing or new buildings with parking and other supportive uses consistent with the size ((~~and~~)), scale, and intensity of the existing agricultural use of the property and the existing buildings on the site ((~~but shall not otherwise convert agricultural land to nonagricultural uses.~~

~~(b) Accessory uses may include compatible commercial or retail uses including, but not limited to:~~

~~(i) Storage and refrigeration of regional agricultural products;~~

~~(ii) Production, sales, and marketing of value-added agricultural products derived from regional sources;~~

~~(iii) Supplemental sources of on-farm income that support and sustain on-farm agricultural operations and production;~~

~~(iv) Support services that facilitate the production, marketing, and distribution of agricultural products; and~~

~~(v) Off-farm and on-farm sales and marketing of predominately regional agricultural products and experiences, locally made art and arts and crafts, and ancillary retail sales or service activities~~)); and

(d) Any new nonagricultural-related activities including new buildings, parking, or supportive uses shall not be located outside the general area already developed for buildings and residential uses and shall not otherwise convert more than one acre of agricultural land to nonagricultural-related activities.

(4) Counties and cities have authority to allow or limit accessory agricultural activities and accessory nonagricultural-related activities in accordance with subsection (3) of this section in areas designated as agricultural lands of long-term commercial significance.

(5) This section shall not be interpreted to limit agricultural production on designated agricultural lands."

MOTION

Senator Rasmussen moved that the following amendment by Senators Rasmussen and Morton to the committee striking amendment be adopted.

Beginning on page 1, line 15 of the amendment, strike all material through "significance." on page 3, line 13, and insert the following:

"(a) Agricultural zoning, which limits the density of development and restricts or prohibits nonfarm uses of agricultural land and may allow accessory uses, including nonagricultural accessory uses and activities, that support, promote, or sustain agricultural operations and production, as provided in subsection (3) of this section;

(b) Cluster zoning, which allows new development on one portion of the land, leaving the remainder in agricultural or open space uses;

(c) Large lot zoning, which establishes as a minimum lot size the amount of land necessary to achieve a successful farming practice;

(d) Quarter/quarter zoning, which permits one residential dwelling on a one-acre minimum lot for each one-sixteenth of a section of land; and

(e) Sliding scale zoning, which allows the number of lots for single-family residential purposes with a minimum lot size of one acre to increase inversely as the size of the total acreage increases.

(3)((~~(a)~~)) Accessory uses allowed under subsection (2)(a) of this section shall comply with the following:

((~~(i)~~)) (a) Accessory uses shall be located, designed, and operated so as ((~~not~~)) to not interfere with ((~~natural resource land uses and shall be accessory to the growing of crops or raising of animals~~)), and to support the continuation of, the overall agricultural use of the property and neighboring properties, and shall comply with the requirements of this chapter;

((~~(ii)~~)) (b) Accessory ((~~commercial or retail~~)) uses ((~~shall predominately produce, store, or sell regionally produced~~)) may include:

(i) Agricultural accessory uses and activities, including but not limited to the storage, distribution, and marketing of regional agricultural products from one or more producers, ((~~products derived from regional agricultural production,~~)) agriculturally related experiences, or ((~~products produced on-site. Accessory commercial and retail uses shall offer for sale predominantly products or services produced on-site~~)) the production, marketing, and distribution of value-added agricultural products, including support services that facilitate these activities; and

((~~(iii) Accessory uses may operate out of existing or new buildings with parking and other supportive uses~~)) (ii) Nonagricultural accessory uses and activities as long as they are consistent with the size ((~~and~~)), scale, and intensity of the existing agricultural use of the property and the existing buildings on the site ((~~but~~)). Nonagricultural accessory uses and activities, including new buildings, parking, or supportive uses, shall not be located outside the general area already developed for buildings and residential uses and shall not otherwise convert more than one acre of agricultural land to nonagricultural uses((~~.~~

~~(b) Accessory uses may include compatible commercial or retail uses including, but not limited to:~~

~~(i) Storage and refrigeration of regional agricultural products;~~

~~(ii) Production, sales, and marketing of value-added agricultural products derived from regional sources;~~

~~(iii) Supplemental sources of on-farm income that support and sustain on-farm agricultural operations and production;~~

~~(iv) Support services that facilitate the production, marketing, and distribution of agricultural products; and~~

~~(v) Off-farm and on-farm sales and marketing of predominately regional agricultural products and experiences,~~

~~locally made art and arts and crafts, and ancillary retail sales or service activities~~)); and

(c) Counties and cities have the authority to limit or exclude accessory uses otherwise authorized in this subsection (3) in areas designated as agricultural lands of long-term commercial significance."

Renumber the remaining subsection consecutively.

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

MOTION

On motion of Senator Finkbeiner, Senator Johnson was excused.

MOTION

On motion of Senator Schoesler, Senators McCaslin and Hewitt were excused.

The President declared the question before the Senate to be the adoption of the amendment by Senators Rasmussen and Morton on page 1, line 15 to the committee striking amendment to Substitute House Bill No. 2917.

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Agriculture & Rural Economic Development as amended to Substitute House Bill No. 2917.

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

MOTION

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

On page 1, line 1 of the title, after "lands;" strike the remainder of the title and insert "and amending RCW 36.70A.177."

MOTION

On motion of Senator Rasmussen, the rules were suspended, Substitute House Bill No. 2917 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2917 as amended by the Senate.

MOTION

On motion of Senator Regala, Senator Haugen was excused.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2917 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Hewitt, Honeyford, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 45

Voting nay: Senator Thibaudeau - 1

Excused: Senators Haugen, Johnson and McCaslin - 3

SUBSTITUTE HOUSE BILL NO. 2917 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2678, by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Kagi, Kretz, B. Sullivan and Ericks)

Reauthorizing the pollution liability insurance agency.

The measure was read the second time.

MOTIONS

Senator Poulsen moved that the following committee striking amendment by the Committee on Water, Energy and Environment be adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.148.020 and 2005 c 518 s 942 are each amended to read as follows:

(1) The pollution liability insurance program trust account is established in the custody of the state treasurer. All funds appropriated for this chapter and all premiums collected for reinsurance shall be deposited in the account. Expenditures from the account shall be used exclusively for the purposes of this chapter including payment of costs of administering the pollution liability insurance and underground storage tank community assistance programs. Expenditures for payment of administrative and operating costs of the agency are subject to the allotment procedures under chapter 43.88 RCW and may be made only after appropriation by statute. No appropriation is required for other expenditures from the account.

(2) Each calendar quarter, the director shall report to the insurance commissioner the loss and surplus reserves required for the calendar quarter. The director shall notify the department of revenue of this amount by the fifteenth day of each calendar quarter.

(3) Each calendar quarter the director shall determine the amount of reserves necessary to fund commitments made to provide financial assistance under RCW 70.148.130 to the extent that the financial assistance reserves do not jeopardize the operations and liabilities of the pollution liability insurance program. The director shall notify the department of revenue of this amount by the fifteenth day of each calendar quarter. The director may immediately establish an initial financial assistance reserve of five million dollars from available revenues. The

director may not expend more than fifteen million dollars for the financial assistance program.

(4) During the 2005-2007 fiscal biennium, the legislature may transfer from the pollution liability insurance program trust account to the state general fund such amounts as reflect the excess fund balance of the account.

(5) This section expires June 1, ((~~2007~~)) 2013.

Sec. 2. RCW 70.148.050 and 1998 c 245 s 115 are each amended to read as follows:

The director has the following powers and duties:

(1) To design and from time to time revise a reinsurance contract providing coverage to an insurer meeting the requirements of this chapter. Before initially entering into a reinsurance contract, the director shall prepare an actuarial report describing the various reinsurance methods considered by the director and describing each method's costs. In designing the reinsurance contract the director shall consider common insurance industry reinsurance contract provisions and shall design the contract in accordance with the following guidelines:

(a) The contract shall provide coverage to the insurer for the liability risks of owners and operators of underground storage tanks for third party bodily injury and property damage and corrective action that are underwritten by the insurer.

(b) In the event of an insolvency of the insurer, the reinsurance contract shall provide reinsurance payable directly to the insurer or to its liquidator, receiver, or successor on the basis of the liability of the insurer in accordance with the reinsurance contract. In no event may the program be liable for or provide coverage for that portion of any covered loss that is the responsibility of the insurer whether or not the insurer is able to fulfill the responsibility.

(c) The total limit of liability for reinsurance coverage shall not exceed one million dollars per occurrence and two million dollars annual aggregate for each policy underwritten by the insurer less the ultimate net loss retained by the insurer as defined and provided for in the reinsurance contract.

(d) Disputes between the insurer and the insurance program shall be settled through arbitration.

(2) To design and implement a structure of periodic premiums due the director from the insurer that takes full advantage of revenue collections and projected revenue collections to ensure affordable premiums to the insured consistent with sound actuarial principles.

(3) To periodically review premium rates for reinsurance to determine whether revenue appropriations supporting the program can be reduced without substantially increasing the insured's premium costs.

(4) To solicit bids from insurers and select an insurer to provide pollution liability insurance to owners and operators of underground storage tanks for third party bodily injury and property damage and corrective action.

(5) To monitor the activities of the insurer to ensure compliance with this chapter and protect the program from excessive loss exposure resulting from claims mismanagement by the insurer.

(6) To monitor the success of the program and periodically make such reports and recommendations to the legislature as the director deems appropriate, and to annually publish a financial report on the pollution liability insurance program trust account showing, among other things, administrative and other expenses paid from the fund.

(7) To annually report the financial and loss experience of the insurer as to policies issued under the program and the financial and loss experience of the program to the legislature.

(8) ((~~To evaluate the effects of the program upon the private market for liability insurance for owners and operators of underground storage tanks and make recommendations to the legislature on the necessity for continuing the program to ensure availability of such coverage.~~

~~(9)~~)) To enter into contracts with public and private agencies to assist the director in his or her duties to design, revise, monitor, and evaluate the program and to provide technical or professional assistance to the director.

((~~(10)~~)) (9) To examine the affairs, transactions, accounts, records, documents, and assets of insurers as the director deems advisable.

Sec. 3. RCW 43.79A.040 and 2005 c 424 s 18, 2005 c 402 s 8, 2005 c 215 s 10, and 2005 c 16 s 2 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

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

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the students with dependents grant account, the basic health plan self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the Washington international exchange scholarship endowment fund, the developmental disabilities endowment trust fund, the energy account, the fair fund, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and fire fighters' plan 2 expense fund, the local tourism promotion account, the produce railcar pool account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund account, the

Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), the pollution liability insurance program trust account, and the life sciences discovery fund. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right of way revolving fund, the advanced environmental mitigation revolving account, the city and county advance right-of-way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

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

Sec. 4. RCW 70.148.900 and 2000 c 16 s 1 are each amended to read as follows:

This chapter shall expire June 1, ((~~2007~~)) 2013.

Sec. 5. RCW 70.149.900 and 2000 c 16 s 2 are each amended to read as follows:

Sections 1 through 11 of this act shall expire June 1, ((~~2007~~)) 2013.

Sec. 6. RCW 82.23A.902 and 2000 c 16 s 3 are each amended to read as follows:

This chapter shall expire on June 1, ((~~2007~~)) 2013, coinciding with the expiration of chapter 70.148 RCW.

NEW SECTION. **Sec. 7.** The following acts or parts of acts are each repealed:

(1) 2000 c 16 s 4 & 1998 c 245 s 178 (uncodified);

(2) 2000 c 16 s 5 & 1997 c 8 s 3 (uncodified); and

(3) 2005 c 428 s 4 (uncodified).

NEW SECTION. **Sec. 8.** Section 3 of this act takes effect July 1, 2006."

On page 1, line 1 of the title, after "agency;" strike the remainder of the title and insert "amending RCW 70.148.020, 70.148.050, 70.148.900, 70.149.900, and 82.23A.902; reenacting and amending RCW 43.79A.040; repealing 2000 c 16 s 4 and 1998 c 245 s 178 (uncodified); repealing 2000 c 16 s 5 and 1997 c 8 s 3 (uncodified); repealing 2005 c 428 s 4 (uncodified); providing an effective date; and providing an expiration date."

WITHDRAWAL OF AMENDMENT

On motion of Senator Poulsen, the committee striking amendment by the Committee on Water, Energy & Environment to Substitute House Bill No. 2678 was withdrawn.

MOTION

Senator Rockefeller moved that the following committee striking amendment by the Committee on Ways & Means adopted

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.148.020 and 2005 c 518 s 942 are each amended to read as follows:

(1) The pollution liability insurance program trust account is established in the custody of the state treasurer. All funds appropriated for this chapter and all premiums collected for reinsurance shall be deposited in the account. Expenditures from the account shall be used exclusively for the purposes of this chapter including payment of costs of administering the pollution liability insurance and underground storage tank community assistance programs. Expenditures for payment of administrative and operating costs of the agency are subject to the allotment procedures under chapter 43.88 RCW and may be made only after appropriation by statute. No appropriation is required for other expenditures from the account.

(2) Each calendar quarter, the director shall report to the insurance commissioner the loss and surplus reserves required for the calendar quarter. The director shall notify the department of revenue of this amount by the fifteenth day of each calendar quarter.

(3) Each calendar quarter the director shall determine the amount of reserves necessary to fund commitments made to provide financial assistance under RCW 70.148.130 to the extent that the financial assistance reserves do not jeopardize the operations and liabilities of the pollution liability insurance program. The director shall notify the department of revenue of this amount by the fifteenth day of each calendar quarter. The director may immediately establish an initial financial assistance reserve of five million dollars from available revenues. The director may not expend more than fifteen million dollars for the financial assistance program.

(4) During the 2005-2007 fiscal biennium, the legislature may transfer from the pollution liability insurance program trust account to the state general fund such amounts as reflect the excess fund balance of the account.

(5) This section expires June 1, ((~~2007~~)) 2013.

Sec. 2. RCW 70.148.050 and 1998 c 245 s 115 are each amended to read as follows:

The director has the following powers and duties:

(1) To design and from time to time revise a reinsurance contract providing coverage to an insurer meeting the requirements of this chapter. Before initially entering into a reinsurance contract, the director shall prepare an actuarial report describing the various reinsurance methods considered by the director and describing each method's costs. In designing the reinsurance contract the director shall consider common insurance industry reinsurance contract provisions and shall design the contract in accordance with the following guidelines:

(a) The contract shall provide coverage to the insurer for the liability risks of owners and operators of underground storage tanks for third party bodily injury and property damage and corrective action that are underwritten by the insurer.

(b) In the event of an insolvency of the insurer, the reinsurance contract shall provide reinsurance payable directly to the insurer or to its liquidator, receiver, or successor on the basis of the liability of the insurer in accordance with the reinsurance contract. In no event may the program be liable for or provide coverage for that portion of any covered loss that is the responsibility of the insurer whether or not the insurer is able to fulfill the responsibility.

(c) The total limit of liability for reinsurance coverage shall not exceed one million dollars per occurrence and two million dollars annual aggregate for each policy underwritten by the insurer less the ultimate net loss retained by the insurer as defined and provided for in the reinsurance contract.

(d) Disputes between the insurer and the insurance program shall be settled through arbitration.

(2) To design and implement a structure of periodic premiums due the director from the insurer that takes full advantage of revenue collections and projected revenue collections to ensure affordable premiums to the insured consistent with sound actuarial principles.

(3) To periodically review premium rates for reinsurance to determine whether revenue appropriations supporting the program can be reduced without substantially increasing the insured's premium costs.

(4) To solicit bids from insurers and select an insurer to provide pollution liability insurance to owners and operators of underground storage tanks for third party bodily injury and property damage and corrective action.

(5) To monitor the activities of the insurer to ensure compliance with this chapter and protect the program from excessive loss exposure resulting from claims mismanagement by the insurer.

(6) To monitor the success of the program and periodically make such reports and recommendations to the legislature as the director deems appropriate, and to annually publish a financial report on the pollution liability insurance program trust account showing, among other things, administrative and other expenses paid from the fund.

(7) To annually report the financial and loss experience of the insurer as to policies issued under the program and the financial and loss experience of the program to the legislature.

(8) ((~~To evaluate the effects of the program upon the private market for liability insurance for owners and operators of underground storage tanks and make recommendations to the legislature on the necessity for continuing the program to ensure availability of such coverage.~~

~~(9)~~)) To enter into contracts with public and private agencies to assist the director in his or her duties to design, revise, monitor, and evaluate the program and to provide technical or professional assistance to the director.

((~~(10)~~)) (9) To examine the affairs, transactions, accounts, records, documents, and assets of insurers as the director deems advisable.

Sec. 3. RCW 70.148.900 and 2000 c 16 s 1 are each amended to read as follows:

This chapter shall expire June 1, ((~~2007~~)) 2013.

Sec. 4. RCW 70.149.900 and 2000 c 16 s 2 are each amended to read as follows:

Sections 1 through 11 of this act shall expire June 1, ((~~2007~~)) 2013.

Sec. 5. RCW 82.23A.902 and 2000 c 16 s 3 are each amended to read as follows:

This chapter shall expire on June 1, ((~~2007~~)) 2013, coinciding with the expiration of chapter 70.148 RCW.

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

(1) 2000 c 16 s 4 & 1998 c 245 s 178 (uncodified);

(2) 2000 c 16 s 5 & 1997 c 8 s 3 (uncodified); and

(3) 2005 c 428 s 4 (uncodified)."

Senator Rockefeller spoke in favor of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Substitute House Bill No. 2678.

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

MOTION

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

On page 1, line 1 of the title, after "agency;" strike the remainder of the title and insert "amending RCW 70.148.020, 70.148.050, 70.148.900, 70.149.900, and 82.23A.902; repealing 2000 c 16 s 4 and 1998 c 245 s 178 (uncodified); repealing 2000 c 16 s 5 and 1997 c 8 s 3 (uncodified); repealing 2005 c 428 s 4 (uncodified); and providing an expiration date."

MOTION

On motion of Senator Rockefeller, the rules were suspended, Substitute House Bill No. 2678, as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator Schoesler, Senator Oke was excused.

PERSONAL PRIVILEGE

Senator Schoesler: "For those of us who are close friends of Senator Oke he's off the floor to the House. There's an event that is issue that is very dear to Senator Oke coming to a vote on the floor. He wishes he was here but we all know that there is an issue that he is very, very close to that is about to be voted on the House floor. He asked me to keep you posted. Thank you."

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2678 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2678 as amended b the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 3; Excused, 3.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kohl-Welles, McAuliffe, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 43

Absent: Senators Deccio, Kline and Regala - 3

Excused: Senators Haugen, McCaslin and Oke - 3

SUBSTITUTE HOUSE BILL NO. 2678 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Schoesler, Senators Mulliken and Finkbeiner were excused.

MOTION

Senator Esser moved that the Senate advance to the ninth order of business for the purpose of relieving the Committee on Government Operations & Elections of Senate Bill No. 6388.

Senator Esser spoke in favor of the motion.

Senator Kastama spoke against the motion.

REMARKS BY THE PRESIDENT

President Owen: "Senator Kastama, you're moving off the issue of advancing to the ninth order of business. You're debating the measure. Senator Kastama."

Benton spoke in favor of the motion.

MOTION

Senator Brown demanded that the previous question be put.

The President declared that at least two additional senators joined the demand and the demand was sustained.

POINT OF ORDER

Senator Esser: "Is it appropriate for one member to interrupt another member to ask for a, to close off debate? Wouldn't it be more appropriate to have the speaker who previously been recognized continue their remarks?"

REMARKS BY THE PRESIDENT

President Owen: "The President believes that the purpose of the, of moving the previous question is for situations where, in fact, a person could be going on and on and not be able to get to the measure. So, a person could be interrupted. However, the President does feel that it's appropriate and has used some leniency in the past, will allow a person to finish their thought before we actually move to the previous question. So, Senator Benton, if you wanted to briefly make your comments the President would allow. Senator Benton. I'm sorry, Senator Benton I did not take the vote on whether we go to the previous question. The demand has been sustained but the vote has not been taken."

The President declared the question before the Senate to be the motion of Senator Brown, "Shall the main question be now put?"

The motion by Senator Brown that the previous question be put was sustained by voice vote.

REMARKS BY THE PRESIDENT

President Owen: "Senator Benton, did you wish to speak?"

Benton spoke in favor of the motion.

REMARKS BY THE PRESIDENT

President Owen: "Senator Benton, the same remarks that I made to Kastama apply to you. You're drifting off the motion to advance to the ninth order."

MOTION

Senator Esser demanded a roll call vote.

The President declared that at least one-sixth of the Senate joined the demand and the demand was sustained.

The President declared the question before the Senate to be the motion by Senator Esser that the Senate advance to the ninth order of business for the purpose of relieving the Committee on Government Operations & Elections of Senate Bill No. 6388.

The Secretary called the roll on the motion by Senator Esser and the motion failed by the following vote: Yeas, 19; Nays, 26; Absent, 0; Excused, 4.

Voting yea: Senators Benson, Benton, Brandland, Carrell, Deccio, Delvin, Esser, Hewitt, Honeyford, Johnson, Morton, Parlette, Pflug, Roach, Schmidt, Schoesler, Stevens, Swecker and Zarelli - 19.

Voting nay: Senators Berkey, Brown, Doumit, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Sheldon, Shin, Spanel, Thibaudeau and Weinstein - 26.

Excused: Senators Finkbeiner, McCaslin, Mulliken and Oke - 4.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2680, by House Committee on Appropriations (originally sponsored by Representatives Conway, Fromhold, Lovick, Kenney, Quall, Simpson and Moeller)

Purchasing service credit in plan 2 and plan 3 of the teachers' retirement system for public education experience performed as a teacher in a public school in another state or with the federal government.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 41.32 RCW under the subchapter heading "plan 2" to read as follows:

(1) An active member who has completed a minimum of five years of creditable service in the teachers' retirement system may, upon written application to the department, make a one-time purchase of up to seven years of service credit for public education experience outside the Washington state retirement system, subject to the following limitations:

(a) The public education experience being claimed must have been performed as a teacher in a public school in another state or with the federal government; and

(b) The public education experience being claimed must have been covered by a retirement or pension plan provided by a state or political subdivision of a state, or by the federal government; and

(c) The member is not currently receiving a benefit or currently eligible to receive an unreduced retirement benefit from a retirement or pension plan of a state or political subdivision of a state or the federal government that includes the service credit to be purchased.

(2) The service credit purchased shall be membership service, and may be used to qualify the member for retirement.

(3) The member shall pay the actuarial value of the resulting increase in the member's benefit calculated in a manner consistent with the department's method for calculating payments for reestablishing service credit under RCW 41.50.165.

(4) The member may pay all or part of the cost of the service credit to be purchased with a lump sum payment,

eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan. The department shall adopt rules to ensure that all lump sum payments, rollovers, and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

(5) The employer also may pay all or a portion of the member's cost of the service credit purchased under this section.

NEW SECTION. **Sec. 2.** A new section is added to chapter 41.32 RCW under the subchapter heading "plan 3" to read as follows:

(1) An active member who has completed a minimum of five years of creditable service in the teachers' retirement system may, upon written application to the department, make a one-time purchase of up to seven years of service credit for public education experience outside the Washington state retirement system, subject to the following limitations:

(a) The public education experience being claimed must have been performed as a teacher in a public school in another state or with the federal government;

(b) The public education experience being claimed must have been covered by a retirement or pension plan provided by a state or political subdivision of a state, or by the federal government; and

(c) The member is not currently receiving a benefit or currently eligible to receive an unreduced retirement benefit from a retirement or pension plan of a state or political subdivision of a state or the federal government that includes the service credit to be purchased.

(2) The service credit purchased shall be membership service, and may be used to qualify the member for retirement.

(3) The member shall pay the actuarial value of the resulting increase in the member's benefit calculated in a manner consistent with the department's method for calculating payments for reestablishing service credit under RCW 41.50.165.

(4) The member may pay all or part of the cost of the service credit to be purchased with a lump sum payment, eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan. The department shall adopt rules to ensure that all lump sum payments, rollovers, and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

(5) The employer also may pay all or a portion of the member's cost of the service credit purchased under this section.

Sec. 3. RCW 41.32.065 and 1991 c 278 s 1 are each amended to read as follows:

A member who has not purchased service credit under the provisions of section 1 or 2 of this act may elect under this section to apply service credit earned in an out-of-state retirement system that covers teachers in public schools solely for the purpose of determining the time at which the member may retire. The benefit shall be actuarially reduced to recognize the difference between the age a member would have first been able to retire based on service in the state of Washington and the member's retirement age.

NEW SECTION. **Sec. 4.** This act takes effect January 1, 2007."

Senator Fraser, Zarelli and Pflug spoke in favor of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 2680.

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

MOTION

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

On page 1, line 4 of the title, after "government;" strike the remainder of the title and insert "amending RCW 41.32.065; adding new sections to chapter 41.32 RCW; and providing an effective date."

MOTION

On motion of Senator Fraser, the rules were suspended, Engrossed Substitute House Bill No. 2680 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fraser spoke in favor of passage of the business.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2680 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2680 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Benson, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 44

Absent: Senator Benton - 1

Excused: Senators Finkbeiner, McCaslin, Mulliken and Oke - 4

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2680 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2402, by House Committee on Technology, Energy & Communications

(originally sponsored by Representatives Morris, Hudgins and B. Sullivan)

Providing for expedited processing of energy facilities and alternative energy resources.

The measure was read the second time.

MOTION

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

On page 5, line 7, after "with" strike "municipal" and insert "city"

On page 5, line 29, after "with" strike "municipal" and insert "city"

On page 5, line 32, after "application, the" strike "municipal" and insert "city"

Senator Poulsen spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Poulsen on page 5, line 7 to Substitute House Bill No. 2402.

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

MOTION

On motion of Senator Poulsen, the rules were suspended, Substitute House Bill No. 2402 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2402 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2402 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Excused: Senators Finkbeiner, McCaslin, Mulliken and Oke - 4

SUBSTITUTE HOUSE BILL NO. 2402 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 3115, by House Committee on Appropriations (originally sponsored by Representatives Darneille, Talcott, Morrell, Green, McDonald, Ormsby, Simpson and Roberts)

Establishing a foster parent critical support and retention program.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

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

(1) Foster parents are able to successfully maintain placements of sexually aggressive youth, physically assaultive children, or children with other high-risk behaviors when they are provided with proper training and support. Lack of support contributes to placement disruptions and multiple moves between foster homes.

(2) Young children who have experienced repeated early abuse and trauma are at high risk for behavior later in life that is sexually deviant, if left untreated. Placement with a well-trained, prepared, and supported foster family can break this cycle.

(3) The department is better able to recruit and retain foster parents by acknowledging that foster parents who serve sexually aggressive youth, physically assaultive children, or children with other high-risk behaviors may be more susceptible to allegations of abuse arising out of a foster child's conduct. Fair investigations of the allegations, protection from disclosure of unfounded allegations, and appropriate maintenance of all department records are necessary to protect foster parents and other similarly situated individuals.

NEW SECTION. **Sec. 2.** A foster parent critical support and retention program is established to retain foster parents who care for sexually aggressive youth, physically assaultive children, or children with other high-risk behaviors. Services shall consist of short-term therapeutic and educational interventions to support the stability of the placement. Services shall be coordinated with the children's administration social worker. The foster parent critical support and retention program is to be implemented under the division of children and family services' contract and supervision. A contractor must demonstrate experience providing in-home case management, as well as experience working with caregivers of children with significant behavioral issues that pose a threat to others or themselves or the stability of the placement.

NEW SECTION. **Sec. 3.** Under the foster parent critical support and retention program, foster parents who care for sexually aggressive youth, physically assaultive children, or children with other high-risk behaviors shall receive:

(1) Availability at any time of the day or night to address specific concerns related to the identified child;

(2) Assessment of risk and development of a safety and supervision plan;

(3) Home-based foster parent training utilizing evidence-based models; and

(4) Referral to relevant community services and training provided by the local children's administration office or

community agencies. Referral to additional services shall be coordinated with the assigned social worker.

Sec. 4. RCW 26.44.020 and 2005 c 512 s 5 are each amended to read as follows:

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

(1) "Court" means the superior court of the state of Washington, juvenile department.

(2) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(3) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" includes a duly accredited Christian Science practitioner: PROVIDED, HOWEVER, That a person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner will not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(4) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment or care.

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

(6) "Child" or "children" means any person under the age of eighteen years of age.

(7) "Professional school personnel" include, but are not limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(8) "Social service counselor" means anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(9) "Psychologist" means any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(10) "Pharmacist" means any registered pharmacist under chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(11) "Clergy" means any regularly licensed or ordained minister, priest, or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(12) "Abuse or neglect" means sexual abuse, sexual exploitation, or injury of a child by any person under circumstances which cause harm to the child's health, welfare, or safety, excluding conduct permitted under RCW 9A.16.100; or the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

(13) "Child protective services section" means the child protective services section of the department.

(14) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

(15) "Negligent treatment or maltreatment" means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety. When considering whether a clear and present danger exists, evidence of a parent's substance abuse as a contributing factor to negligent treatment or maltreatment shall be given great weight. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment. Poverty, homelessness, or exposure to domestic violence as defined in RCW 26.50.010 that is perpetrated against someone other than the child ((~~do [does]~~)) does not constitute negligent treatment or maltreatment in and of ((~~themselves [itself]~~)) itself.

(16) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard such children from future abuse and neglect, and conduct investigations of child abuse and neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. Child protective services includes referral to services to ameliorate conditions that endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.

(17) "Malice" or "maliciously" means an evil intent, wish, or design to vex, annoy, or injure another person. Such malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.

(18) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

(19) "Screened-out report" means a report of alleged child abuse or neglect that the department has determined does not rise to the level of a credible report of abuse or neglect and is not referred for investigation.

(20) "Unfounded" means ((~~available information indicates~~)) a finding at the completion of an investigation by the department or a judicial finding that, more likely than not, child abuse or neglect did not occur. ((~~No unfounded allegation of child abuse or neglect may be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under chapter 74.15 RCW.~~))

(21) "Inconclusive" means a finding at the completion of an investigation by the department that there is insufficient evidence to conclude that the alleged child abuse or neglect occurred.

(22) "Founded" means a finding at the completion of an investigation by the department or a judicial finding that, more likely than not, the alleged child abuse or neglect occurred.

Sec. 5. RCW 26.44.030 and 2005 c 417 s 1 are each amended to read as follows:

(1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, licensed or certified child care providers or their employees, employee of the department, juvenile probation officer, placement and liaison specialist, responsible living skills program staff, HOPE center staff, or state family and children's ombudsman or any volunteer in the ombudsman's office has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) When any person, in his or her official supervisory capacity with a nonprofit or for-profit organization, has reasonable cause to believe that a child has suffered abuse or neglect caused by a person over whom he or she regularly exercises supervisory authority, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency, provided that the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children or regularly has unsupervised access to a child or children as part of the employment, contract, or voluntary service. No one shall be required to report under this section when he or she obtains the information solely as a result of a privileged communication as provided in RCW 5.60.060.

Nothing in this subsection (1)(b) shall limit a person's duty to report under (a) of this subsection.

For the purposes of this subsection, the following definitions apply:

(i) "Official supervisory capacity" means a position, status, or role created, recognized, or designated by any nonprofit or for-profit organization, either for financial gain or without financial gain, whose scope includes, but is not limited to, overseeing, directing, or managing another person who is employed by, contracted by, or volunteers with the nonprofit or for-profit organization.

(ii) "Regularly exercises supervisory authority" means to act in his or her official supervisory capacity on an ongoing or continuing basis with regards to a particular person.

(c) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment, any department of corrections personnel has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(d) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(e) The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child has suffered abuse or neglect. The report must include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section does apply.

(3) Any other person who has reasonable cause to believe that a child has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services. Upon request, the department shall conduct such planning and

consultation with those persons required to report under this section if the department determines it is in the best interests of the child. Information considered privileged by statute and not directly related to reports required by this section must not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving a report((s)) of alleged abuse or neglect, the department shall:

(a) Make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which:

(i) The department believes there is a serious threat of substantial harm to the child;

(ii) The report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or

(iii) The department has a prior founded report of abuse or neglect that is within three years of receipt of the referral;

(b) Unless the report is screened-out or being investigated by a law enforcement agency, conduct an investigation within time frames established by the department in rule; and

(c) Make a finding that the report of child abuse or neglect is unfounded, founded, or inconclusive at the completion of the investigation.

(11) In conducting an investigation of alleged abuse or neglect, the department or law enforcement agency:

(a) May interview children. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. Parental notification of the interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation((.

~~(11) Upon receiving a report of alleged child abuse and neglect, the department or investigating law enforcement agency~~)); and

(b) Shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(12) The department shall maintain investigation records and conduct timely and periodic reviews of all founded cases ((~~constituting~~)) of abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(13) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

(14) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

(((~~(15) The department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which: (a) The department believes there is a serious threat of substantial harm to the child; (b) the report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or (c) the department has, after investigation, a report of abuse or neglect that has been founded with regard to a member of the household within three years of receipt of the referral.~~))

Sec. 6. RCW 26.44.031 and 1997 c 282 s 1 are each amended to read as follows:

(1) To protect the privacy in reporting and the maintenance of reports of nonaccidental injury, neglect, death, sexual abuse, and cruelty to children by their parents, and to safeguard against arbitrary, malicious, or erroneous information or actions, the department shall not disclose or maintain information related to ((~~unfounded referrals in files or~~)) reports of child abuse or neglect ((~~for longer than six years~~)) except as provided in this section.

(((~~At the end of six years from receipt of the unfounded report, the information shall be purged unless an additional report has been received in the intervening period.~~)))

(2) The department shall destroy all of the electronic records concerning:

(a) A screened-out report, within thirty days from the receipt of the report;

(b) An unfounded report, within one year of completion of the investigation; and

(c) An inconclusive report, within six years of completion of the investigation, unless a prior or subsequent founded report has been received before the records are destroyed.

(3) The department may keep records concerning founded reports of child abuse or neglect as the department determines by rule.

(4) An unfounded or screened-out report may not be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under chapter 74.15 RCW.

(5)(a) If the department fails to comply with this section, an individual who is the subject of a report may institute proceedings for injunctive or other appropriate relief for enforcement of the requirement to purge information. These proceedings may be instituted in the superior court for the county in which the person resides or, if the person is not then a resident of this state, in the superior court for Thurston county.

(b) If the department fails to comply with subsection (4) of this section and an individual who is the subject of the report is harmed by the disclosure of information, in addition to the relief provided in (a) of this subsection, the court may award a penalty of up to one thousand dollars and reasonable attorneys' fees and court costs to the petitioner.

(c) A proceeding under this subsection does not preclude other methods of enforcement provided for by law.

(6) The department shall establish, by rule, a process and standards for an individual who is the subject of an inconclusive report of child abuse or neglect to request destruction of department records earlier than the time frames set out in this section.

(7) Nothing in this section shall prevent the department from retaining general, nonidentifying information which is required for state and federal reporting and management purposes.

Sec. 7. RCW 74.13.280 and 2001 c 318 s 3 are each amended to read as follows:

(1) Except as provided in RCW 70.24.105, whenever a child is placed in out-of-home care by the department or a child-placing agency, the department or agency shall share information about the child and the child's family with the care provider and shall consult with the care provider regarding the child's case plan. If the child is dependent pursuant to a proceeding under chapter 13.34 RCW, the department or agency shall keep the care provider informed regarding the dates and location of dependency review and permanency planning hearings pertaining to the child.

(2) Information about the child and the child's family shall include information about behavioral and emotional problems of the child and whether the child is a sexually aggressive youth as provided in RCW 74.13.075.

(3) Any person who receives information about a child or a child's family pursuant to this section shall keep the information confidential and shall not further disclose or disseminate the information except as authorized by law.

(((~~(3)~~))) (4) Nothing in this section shall be construed to limit the authority of the department or child-placing agencies to disclose client information or to maintain client confidentiality as provided by law.

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

(1) A care provider may not be found to have abused or neglected a child under chapter 26.44 RCW or be denied a license pursuant to chapter 74.15 RCW and RCW 74.13.031 for any allegations of failure to supervise wherein:

(a) The allegations arise from the child's conduct that is substantially similar to prior behavior of the child, the child has behavioral or emotional problems that were known to the department, and the problems were not disclosed to the care provider as required by RCW 74.13.280;

(b) The allegations arise from the child's conduct, the child is a sexually aggressive youth as defined in RCW 74.13.075, and the care provider had no prior knowledge that the child was sexually aggressive; or

(c) The child was not within the reasonable control of the care provider at the time of the incident that is the subject of the allegation.

(2) Allegations of child abuse or neglect against a care provider that meet the provisions of this section shall be designated as "unfounded" as defined in RCW 26.44.020.

Sec. 9. RCW 74.15.130 and 2005 c 473 s 6 are each amended to read as follows:

(1) An agency may be denied a license, or any license issued pursuant to chapter 74.15 RCW and RCW 74.13.031 may be suspended, revoked, modified, or not renewed by the secretary upon proof (a) that the agency has failed or refused to comply with the provisions of chapter 74.15 RCW and RCW 74.13.031 or the requirements promulgated pursuant to the provisions of chapter 74.15 RCW and RCW 74.13.031; or (b) that the conditions required for the issuance of a license under chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such licenses. RCW 43.20A.205 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.

(2) In any adjudicative proceeding regarding the denial, modification, suspension, or revocation of a foster family home license, the department's decision shall be upheld if there is reasonable cause to believe that:

(a) The applicant or licensee lacks the character, suitability, or competence to care for children placed in out-of-home care, however, no unfounded or screened-out report of child abuse or neglect may be used to deny employment or a license;

(b) The applicant or licensee has failed or refused to comply with any provision of chapter 74.15 RCW, RCW 74.13.031, or the requirements adopted pursuant to such provisions; or

(c) The conditions required for issuance of a license under chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such licenses.

(3) In any adjudicative proceeding regarding the denial, modification, suspension, or revocation of any license under this chapter, other than a foster family home license, the department's decision shall be upheld if it is supported by a preponderance of the evidence.

(4) The department may assess civil monetary penalties upon proof that an agency has failed or refused to comply with the rules adopted under the provisions of this chapter and RCW 74.13.031 or that an agency subject to licensing under this chapter and RCW 74.13.031 is operating without a license except that civil monetary penalties shall not be levied against a licensed foster home. Monetary penalties levied against unlicensed agencies that submit an application for licensure within thirty days of notification and subsequently become licensed will be forgiven. These penalties may be assessed in addition to or in lieu of other disciplinary actions. Civil monetary penalties, if imposed, may be assessed and collected, with interest, for each day an agency is or was out of compliance. Civil monetary penalties shall not exceed seventy-five dollars per violation for a family day-care home and two hundred fifty dollars per violation for group homes, child day-care centers, and child-placing agencies. Each day upon which the same or substantially similar action occurs is a separate violation subject to the assessment of a separate penalty. The

department shall provide a notification period before a monetary penalty is effective and may forgive the penalty levied if the agency comes into compliance during this period. The department may suspend, revoke, or not renew a license for failure to pay a civil monetary penalty it has assessed pursuant to this chapter within ten days after such assessment becomes final. Chapter 43.20A RCW governs notice of a civil monetary penalty and provides the right of an adjudicative proceeding. The preponderance of evidence standard shall apply in adjudicative proceedings related to assessment of civil monetary penalties.

(5)(a) In addition to or in lieu of an enforcement action being taken, the department may place a child day-care center or family day-care provider on nonreferral status if the center or provider has failed or refused to comply with this chapter or rules adopted under this chapter or an enforcement action has been taken. The nonreferral status may continue until the department determines that: (i) No enforcement action is appropriate; or (ii) a corrective action plan has been successfully concluded.

(b) Whenever a child day-care center or family day-care provider is placed on nonreferral status, the department shall provide written notification to the child day-care center or family day-care provider.

(6) The department shall notify appropriate public and private child care resource and referral agencies of the department's decision to: (a) Take an enforcement action against a child day-care center or family day-care provider; or (b) place or remove a child day-care center or family day-care provider on nonreferral status.

NEW SECTION. **Sec. 10.** The code reviser shall alphabetize the definitions in RCW 26.44.020 and correct any references.

NEW SECTION. **Sec. 11.** Sections 4 through 6, 9, and 10 of this act take effect July 1, 2007. The department of social and health services shall present a report to the appropriate committees of the legislature by January 1, 2007, with proposed legislative changes, if any, to those sections."

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

MOTION

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

On page 2 line 14, strike "and";

On page 2 line 18, after "social worker" insert "; and

(5)Any relevant health care information. Disclosure of any relevant health care information shall be consistent with RCW 70.24.105 and any guidelines or recommendations established by the Department of Health concerning disclosure of such information, including testing for and disclosure of information related to blood-borne pathogens"

Senators Rockefeller and Stevens spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Rockefeller on page 2, line 14 to the committee striking amendment to Second Substitute House Bill No. 3115.

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means as amended to Second Substitute House Bill No. 3115.

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

MOTION

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

On page 1, line 2 of the title, after "program;" strike the remainder of the title and insert "amending RCW 26.44.020, 26.44.030, 26.44.031, 74.13.280, and 74.15.130; adding a new section to chapter 74.13 RCW; creating new sections; and providing an effective date."

MOTION

On motion of Senator Regala, the rules were suspended, Second Substitute House Bill No. 3115 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 3115 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 3115 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Excused: Senators Finkbeiner, McCaslin, Mulliken and Oke - 4

SECOND SUBSTITUTE HOUSE BILL NO. 3115 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2033, by House Committee on Finance (originally sponsored by Representatives McIntire, Orcutt, Conway, Hunter, Chase and Santos)

Modifying municipal business and occupation taxation. Revised for 1st Substitute: Modifying the allocation of printing and publishing income for municipal business and occupation taxes.

The measure was read the second time.

MOTION

On motion of Senator Kastama, the rules were suspended, Substitute House Bill No. 2033 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2033.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2033 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Excused: Senators McCaslin and Oke - 2

SUBSTITUTE HOUSE BILL NO. 2033, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 3122, by Representatives Kagi, Walsh, Dickerson, Darneille, Ericks, Ormsby and Roberts

Recognizing the safety of child protective, child welfare, and adult protective services workers.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that employees of the department of social and health services who provide child protective, child welfare, and adult protective services are sometimes faced with highly volatile, hostile, and/or threatening situations during the course of performing their official duties. The legislature finds that the work group convened by the department of social and health services pursuant to chapter 389, Laws of 2005, has made various recommendations regarding policies and protocols to address the safety of workers. The legislature intends to implement the work group's recommendations for statutory changes in recognition of the sometimes hazardous nature of employment in child protective, child welfare, and adult protective services.

NEW SECTION. **Sec. 2.** A new section is added to chapter 74.04 RCW to read as follows:

(1) For purposes of this section only, "assault" means an unauthorized touching of a child protective, child welfare, or adult protective services worker employed by the department of social and health services resulting in physical injury to the employee.

(2) In recognition of the hazardous nature of employment in child protective, child welfare, and adult protective services, the legislature hereby provides a supplementary program to reimburse employees of the department, for some of their costs attributable to their being the victims of assault while in the course of discharging their assigned duties. This program shall be limited to the reimbursement provided in this section.

(3) An employee is only entitled to receive the reimbursement provided in this section if the secretary of social and health services, or the secretary's designee, finds that each of the following has occurred:

(a) A person has assaulted the employee while the employee was in the course of performing his or her official duties and, as a result thereof, the employee has sustained demonstrated physical injuries which have required the employee to miss days of work;

(b) The assault cannot be attributable to any extent to the employee's negligence, misconduct, or failure to comply with any rules or conditions of employment; and

(c) The department of labor and industries has approved the employee's workers' compensation application pursuant to chapter 51.32 RCW.

(4) The reimbursement authorized under this section shall be as follows:

(a) The employee's accumulated sick leave days shall not be reduced for the workdays missed;

(b) For each workday missed for which the employee is not eligible to receive compensation under chapter 51.32 RCW, the employee shall receive full pay; and

(c) In respect to workdays missed for which the employee will receive or has received compensation under chapter 51.32 RCW, the employee shall be reimbursed in an amount which, when added to that compensation, will result in the employee receiving full pay for the workdays missed.

(5) Reimbursement under this section may not last longer than three hundred sixty-five consecutive days after the date of the injury.

(6) The employee shall not be entitled to the reimbursement provided in subsection (4) of this section for any workday for which the secretary, or the secretary's designee, finds that the employee has not diligently pursued his or her compensation remedies under chapter 51.32 RCW.

(7) The reimbursement shall only be made for absences which the secretary, or the secretary's designee, believes are justified.

(8) While the employee is receiving reimbursement under this section, he or she shall continue to be classified as a state employee and the reimbursement amount shall be considered as salary or wages.

(9) All reimbursement payments required to be made to employees under this section shall be made by the department. The payments shall be considered as a salary or wage expense and shall be paid by the department in the same manner and from the same appropriations as other salary and wage expenses of the department.

(10) Should the legislature revoke the reimbursement authorized under this section or repeal this section, no affected employee is entitled thereafter to receive the reimbursement as a matter of contractual right.

Sec. 3. RCW 9A.46.110 and 2003 c 53 s 70 are each amended to read as follows:

(1) A person commits the crime of stalking if, without lawful authority and under circumstances not amounting to a felony attempt of another crime:

(a) He or she intentionally and repeatedly harasses or repeatedly follows another person; and

(b) The person being harassed or followed is placed in fear that the stalker intends to injure the person, another person, or

property of the person or of another person. The feeling of fear must be one that a reasonable person in the same situation would experience under all the circumstances; and

(c) The stalker either:

(i) Intends to frighten, intimidate, or harass the person; or

(ii) Knows or reasonably should know that the person is afraid, intimidated, or harassed even if the stalker did not intend to place the person in fear or intimidate or harass the person.

(2)(a) It is not a defense to the crime of stalking under subsection (1)(c)(i) of this section that the stalker was not given actual notice that the person did not want the stalker to contact or follow the person; and

(b) It is not a defense to the crime of stalking under subsection (1)(c)(ii) of this section that the stalker did not intend to frighten, intimidate, or harass the person.

(3) It shall be a defense to the crime of stalking that the defendant is a licensed private investigator acting within the capacity of his or her license as provided by chapter 18.165 RCW.

(4) Attempts to contact or follow the person after being given actual notice that the person does not want to be contacted or followed constitutes prima facie evidence that the stalker intends to intimidate or harass the person. "Contact" includes, in addition to any other form of contact or communication, the sending of an electronic communication to the person.

(5)(a) Except as provided in (b) of this subsection, a person who stalks another person is guilty of a gross misdemeanor.

(b) A person who stalks another is guilty of a class C felony if any of the following applies: (i) The stalker has previously been convicted in this state or any other state of any crime of harassment, as defined in RCW 9A.46.060, of the same victim or members of the victim's family or household or any person specifically named in a protective order; (ii) the stalking violates any protective order protecting the person being stalked; (iii) the stalker has previously been convicted of a gross misdemeanor or felony stalking offense under this section for stalking another person; (iv) the stalker was armed with a deadly weapon, as defined in RCW 9.94A.602, while stalking the person; (v) the stalker's victim is or was a law enforcement officer, judge, juror, attorney, victim advocate, legislator, ((~~or~~)) community correction's officer, or an employee of the child protective, child welfare, or adult protective services division within the department of social and health services, and the stalker stalked the victim to retaliate against the victim for an act the victim performed during the course of official duties or to influence the victim's performance of official duties; or (vi) the stalker's victim is a current, former, or prospective witness in an adjudicative proceeding, and the stalker stalked the victim to retaliate against the victim as a result of the victim's testimony or potential testimony.

(6) As used in this section:

(a) "Follows" means deliberately maintaining visual or physical proximity to a specific person over a period of time. A finding that the alleged stalker repeatedly and deliberately appears at the person's home, school, place of employment, business, or any other location to maintain visual or physical proximity to the person is sufficient to find that the alleged stalker follows the person. It is not necessary to establish that the alleged stalker follows the person while in transit from one location to another.

(b) "Harasses" means unlawful harassment as defined in RCW 10.14.020.

(c) "Protective order" means any temporary or permanent court order prohibiting or limiting violence against, harassment of, contact or communication with, or physical proximity to another person.

(d) "Repeatedly" means on two or more separate occasions.

NEW SECTION. **Sec. 4.** The department of social and health services shall report to the governor and the appropriate committees of the legislature by December 1, 2006, on the implementation of those recommendations contained in the department's October 2005 report entitled child protective services - staff safety.

NEW SECTION. **Sec. 5.** Section 4 of this act expires January 1, 2007."

Senators Hargrove and Stevens spoke in favor of adoption of the committee striking amendment.

MOTION

On motion of Senator Honeyford, Senator Mulliken was excused.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to House Bill No. 3122.

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

MOTION

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

On page 1, line 2 of the title, after "workers;" strike the remainder of the title and insert "amending RCW 9A.46.110; adding a new section to chapter 74.04 RCW; creating new sections; and providing an expiration date."

MOTION

On motion of Senator Hargrove, the rules were suspended, House Bill No. 3122 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 3122 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3122 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 46

Excused: Senators McCaslin, Mulliken and Oke - 3

HOUSE BILL NO. 3122 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2681, by Representatives Conway, Fromhold, Lovick, Green, Sells, Kenney, Quall, Simpson, Moeller and Morrell

Establishing minimum contribution rates for the public

employees' retirement system, the public safety employees' retirement system, the school employees' retirement system, and the teachers' retirement system.

The measure was read the second time.

MOTION

On motion of Senator Fraser, the rules were suspended, House Bill No. 2681 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fraser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2681.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2681 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 45

Absent: Senator Thibaudeau - 1

Excused: Senators McCaslin, Mulliken and Oke - 3

HOUSE BILL NO. 2681, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Brown, pursuant to Senate Rule 18, Engrossed House Bill No. 1069 was made a special order to be considered at 4:55 p.m.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1384, by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Haler, B. Sullivan, Morris, Crouse, P. Sullivan, Chase and Hudgins)

Authorizing the construction and operation of renewable energy projects by joint operating agencies.

The measure was read the second time.

MOTION

On motion of Senator Kastama, the rules were suspended, Second Substitute House Bill No. 1384 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1384.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1384 and the bill passed the Senate by the following vote: Yeas, 32; Nays, 14; Absent, 0; Excused, 3.

Voting yea: Senators Benson, Berkey, Brandland, Brown, Deccio, Delvin, Doumit, Eide, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Jacobsen, Kastama, Kohl-Welles, McAuliffe, Morton, Parlette, Poulsen, Pridemore, Regala, Schoesler, Sheldon, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 32

Voting nay: Senators Benton, Carrell, Esser, Honeyford, Johnson, Keiser, Kline, Pflug, Prentice, Rasmussen, Roach, Rockefeller, Schmidt and Stevens - 14

Excused: Senators McCaslin, Mulliken and Oke - 3

SECOND SUBSTITUTE HOUSE BILL NO. 1384, 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

Senator Esser moved that the Senate immediately consider House Bill No. 2704.

Senator Eide spoke against the motion.

The President declared the question the question before the Senate to be the motion by Senator Esser to immediately consider House Bill No. 2704.

Senator Esser demanded a division.

MOTION

Senator Esser demanded a roll call vote.

The President declared that at least one-sixth of the Senate joined the demand and the demand was sustained.

Pursuant to Rule 18, further consideration of the motion by Senator Esser was deferred.

At 4:55 p.m., the President announced that the special order was before the Senate.

SPECIAL ORDER OF BUSINESS

SECOND READING

ENGROSSED HOUSE BILL NO. 1069, by Representatives McIntire, Conway, Priest, Upthegrove, Kilmer, Moeller, Dickerson, Williams, Schual-Berke, Nixon, Springer, Sells, P. Sullivan, Green, Lovick, Kenney, Haigh, Wallace, Kagi, Simpson, Linville, Morris, Wood, Hunter, Lantz, Hudgins, Ericks, Darneille, Clibborn, Sommers, Morrell, Takko, O'Brien, Appleton, Hunt, Santos, Ormsby, Murray and Chase

Requiring performance audits for tax preferences.

The measure was read the second time.

MOTION

Senator Prentice moved that the following committee

striking amendment by the Committee on Ways & Means be not adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature recognizes that tax preferences are enacted to meet objectives which are determined to be in the public interest. However, some tax preferences may not be efficient or equitable tools for the achievement of current public policy objectives. Given the changing nature of the economy and tax structures of other states, the legislature finds that periodic performance audits of tax preferences are needed to determine if their continued existence will serve the public interest.

NEW SECTION. **Sec. 2.** As used in this chapter, "tax preference" means an exemption, exclusion, or deduction from the base of a state tax; a credit against a state tax; a deferral of a state tax; or a preferential state tax rate.

NEW SECTION. **Sec. 3.** (1) The citizen commission for performance measurement of tax preferences is created.

(2) The commission has seven members as follows:

(a) One member is the state auditor, who is a nonvoting member;

(b) One member is the chair of the joint legislative audit and review committee, who is a nonvoting member;

(c) The chair of each of the two largest caucuses of the senate and the two largest caucuses of the house of representatives shall each appoint a member. None of these appointees may be members of the legislature; and

(d) The governor shall select the seventh member.

(3) Persons appointed by the caucus chairs should be individuals who represent a balance of perspectives and constituencies, and have a basic understanding of state tax policy, government operations, and public services. These appointees should have knowledge and expertise in performance management, fiscal analysis, strategic planning, economic development, performance assessments, or closely related fields.

(4) The commission shall elect a chair from among its voting or nonvoting members. Decisions of the commission must be made using the sufficient consensus model. For the purposes of this subsection, "sufficient consensus" means the point at which the vast majority of the commission favors taking a particular action. If the commission determines that sufficient consensus cannot be reached, a vote must be taken. The commission must allow a minority report to be included with a decision of the commission, if requested by a member of the commission.

(5) Members serve for terms of four years, with the terms expiring on June 30th on the fourth year of the term. However, in the case of the initial terms, the members appointed by the chairs of senate caucuses shall serve four-year terms, the members appointed by the chairs of house of representatives caucuses shall serve three-year terms, and the member appointed by the governor shall serve a two-year term, with each of the terms expiring on June 30th of the applicable year. Appointees may be reappointed to serve more than one term.

(6) The joint legislative audit and review committee shall provide clerical, technical, and management personnel to the commission to serve as the commission's staff. The department of revenue shall provide necessary support and information to the joint legislative audit and review committee.

(7) The commission shall meet at least once a quarter and may hold additional meetings at the call of the chair or by a majority vote of the members of the commission. The members of the commission shall be compensated in accordance with RCW 43.03.220 and reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. **Sec. 4.** (1) The citizen commission for performance measurement of tax preferences shall develop a schedule to accomplish an orderly review of tax preferences at least once every ten years. The commission shall schedule tax preferences for review in the order the tax preferences were enacted into law, except that the commission may elect to include, anywhere in the schedule, a tax preference that has a statutory expiration date. The commission shall omit from the schedule tax preferences that are required by constitutional law, sales and use tax exemptions for machinery and equipment for manufacturing, research and development, or testing, the small business credit for the business and occupation tax, tax preferences applicable to not-for-profit cooperatives chartered under chapter 31.12 RCW, sales and use tax exemptions for food and prescription drugs, property tax relief for retired persons, and property tax valuations based on current use, and may omit any tax preference that the commission determines is a critical part of the structure of the tax system. As an alternative to the process under section 5 of this act, the commission may recommend to the joint legislative audit and review committee an expedited review process for any tax preference that has an estimated biennial fiscal impact of ten million dollars or less.

(2) The commission shall revise the schedule as needed each year, taking into account newly enacted or terminated tax preferences. The commission shall deliver the schedule to the joint legislative audit and review committee by September 1st of each year.

(3) The commission shall provide a process for effective citizen input during its deliberations.

NEW SECTION. **Sec. 5.** (1) The joint legislative audit and review committee shall review tax preferences according to the schedule developed under section 4 of this act. The committee shall consider, but not be limited to, the following factors in the review:

(a) The classes of individuals, types of organizations, or types of industries whose state tax liabilities are directly affected by the tax preference;

(b) Public policy objectives that might provide a justification for the tax preference, including but not limited to the legislative history, any legislative intent, or the extent to which the tax preference encourages business growth or relocation into this state, promotes growth or retention of high wage jobs, or helps stabilize communities;

(c) Evidence that the existence of the tax preference has contributed to the achievement of any of the public policy objectives;

(d) The extent to which continuation of the tax preference might contribute to any of the public policy objectives;

(e) The extent to which the tax preference may provide unintended benefits to an individual, organization, or industry other than those the legislature intended;

(f) The extent to which terminating the tax preference may have negative effects on the category of taxpayers that currently benefit from the tax preference, and the extent to which resulting higher taxes may have negative effects on employment and the economy;

(g) The feasibility of modifying the tax preference to provide for adjustment or recapture of the tax benefits of the tax preference if the objectives are not fulfilled;

(h) Fiscal impacts of the tax preference, including past impacts and expected future impacts if it is continued. For the purposes of this subsection, "fiscal impact" includes an analysis of the general effects of the tax preference on the overall state economy, including, but not limited to, the effects of the tax preference on the consumption and expenditures of persons and businesses within the state;

(i) The extent to which termination of the tax preference would affect the distribution of liability for payment of state taxes;

(j) Consideration of similar tax preferences adopted in other states, and potential public policy benefits that might be gained by incorporating corresponding provisions in Washington.

(2) For each tax preference, the committee shall provide a recommendation as to whether the tax preference should be continued without modification, modified, scheduled for sunset

review at a future date, or terminated immediately. The committee may recommend accountability standards for the future review of a tax preference.

NEW SECTION. **Sec. 6.** (1) The joint legislative audit and review committee shall report its findings and recommendations for scheduled tax preferences to the citizen commission for performance measurement of tax preferences by August 30th of each year. The commission may review and comment on the report of the committee. The committee may revise its report based on the comments of the commission. The committee shall prepare a final report that includes the comments of the commission and submit the final report to the finance committee of the house of representatives and the ways and means committee of the senate by December 30th.

(2) The joint legislative audit and review committee shall submit a special report reviewing all tax preferences that have statutory expiration dates between June 30, 2006, and January 1, 2008. For the special report, the committee shall complete a review under section 5 of this act, and obtain comments of the citizen commission for performance measurement of tax preferences under subsection (1) of this section, to the extent possible. The committee shall submit the special report to the finance committee of the house of representatives and the ways and means committee of the senate by January 12, 2007.

(3) Following receipt of a report under this section, the finance committee of the house of representatives and the ways and means committee of the senate shall jointly hold a public hearing to consider the final report and any related data.

NEW SECTION. **Sec. 7.** Upon request of the citizen commission for performance measurement of tax preferences or the joint legislative audit and review committee, the department of revenue and the department of employment security shall provide information needed by the commission or committee to meet its responsibilities under this chapter.

NEW SECTION. **Sec. 8.** The following acts or parts of acts are each repealed:
(1) RCW 43.136.010 (Legislative findings--Intent) and 1982 1st ex.s. c 35 s 39;
(2) RCW 43.136.020 ("Tax preference" defined) and 1982 1st ex.s. c 35 s 40;
(3) RCW 43.136.030 (Legislative budget committee and department of revenue--Review of tax preferences--Reports) and 1982 1st ex.s. c 35 s 41;
(4) RCW 43.136.040 (Legislative budget committee review of tax preferences--Factors for consideration) and 1982 1st ex.s. c 35 s 42;
(5) RCW 43.136.050 (Powers and duties of ways and means committees) and 1982 1st ex.s. c 35 s 43; and
(6) RCW 43.136.070 (Report on existing tax preferences to be provided--Additional information to be provided) and 1982 1st ex.s. c 35 s 45.

NEW SECTION. **Sec. 9.** Sections 1 through 7 of this act are each added to chapter 43.136 RCW."

On page 1, line 1 of the title, after "preferences;" strike the remainder of the title and insert "adding new sections to chapter 43.136 RCW; and repealing RCW 43.136.010, 43.136.020, 43.136.030, 43.136.040, 43.136.050, and 43.136.070."

The President declared the question before the Senate to be the motion by Senator Prentice to not adopt the committee striking amendment by the Committee on Ways & Means to Engrossed House Bill No. 1069.

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

MOTION

On motion of Senator Prentice, the rules were suspended, Engrossed House Bill No. 1069 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Prentice and Benson spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1069.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1069 and the bill passed the Senate by the following vote: Yeas, 33; Nays, 15; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brown, Doumit, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schmidt, Sheldon, Shin, Spanel, Swecker, Thibaudeau and Weinstein - 33

Voting nay: Senators Brandland, Carrell, Deccio, Delvin, Esser, Finkbeiner, Hewitt, Honeyford, Johnson, Morton, Mulliken, Roach, Schoesler, Stevens and Zarelli - 15

Excused: Senator McCaslin - 1

ENGROSSED HOUSE BILL NO. 1069, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The Senate resumed consideration of the motion by Senator Esser deferred earlier in the day for the special order.

The President declared the question before the Senate to be the motion by Senator Esser to immediately consider House Bill No. 2704.

The Secretary called the roll on the motion by Senator Esser and the motion carried by the following vote: Yeas, 35; Nays, 13; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Carrell, Deccio, Delvin, Doumit, Esser, Finkbeiner, Hargrove, Haugen, Hewitt, Honeyford, Johnson, Kastama, Keiser, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Pridemore, Rasmussen, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Stevens, Swecker, Weinstein and Zarelli - 35.

Voting nay: Senators Brown, Eide, Fairley, Franklin, Fraser, Jacobsen, Kline, Kohl-Welles, McAuliffe, Prentice, Regala, Spanel and Thibaudeau - 13.

Excused: Senator McCaslin - 1.

SECOND READING

HOUSE BILL NO. 2704, by Representatives O'Brien, Pearson, Darneille, Kirby, Ahern, Williams, Strow, Kilmer, Green, Sells and Morrell

Including organized retail theft in crime guidelines.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9A.48.070 and 1983 1st ex.s. c 4 s 1 are each amended to read as follows:

(1) A person is guilty of malicious mischief in the first degree if he or she knowingly and maliciously:

(a) Causes physical damage to the property of another in an amount exceeding ((~~one~~)) two thousand five hundred dollars;

(b) Causes an interruption or impairment of service rendered to the public by physically damaging or tampering with an emergency vehicle or property of the state, a political subdivision thereof, or a public utility or mode of public transportation, power, or communication; or

(c) Causes an impairment of the safety, efficiency, or operation of an aircraft by physically damaging or tampering with the aircraft or aircraft equipment, fuel, lubricant, or parts.

(2) Malicious mischief in the first degree is a class B felony.

Sec. 2. RCW 9A.48.080 and 1994 c 261 s 17 are each amended to read as follows:

(1) A person is guilty of malicious mischief in the second degree if he or she knowingly and maliciously:

(a) Causes physical damage to the property of another in an amount exceeding ((~~two~~)) seven hundred fifty dollars; or

(b) Creates a substantial risk of interruption or impairment of service rendered to the public, by physically damaging or tampering with an emergency vehicle or property of the state, a political subdivision thereof, or a public utility or mode of public transportation, power, or communication.

(2) Malicious mischief in the second degree is a class C felony.

Sec. 3. RCW 9A.48.090 and 2003 c 53 s 71 are each amended to read as follows:

(1) A person is guilty of malicious mischief in the third degree if he or she:

(a) Knowingly and maliciously causes physical damage to the property of another, under circumstances not amounting to malicious mischief in the first or second degree; or

(b) Writes, paints, or draws any inscription, figure, or mark of any type on any public or private building or other structure or any real or personal property owned by any other person unless the person has obtained the express permission of the owner or operator of the property, under circumstances not amounting to malicious mischief in the first or second degree.

(2)((~~(a)~~)) Malicious mischief in the third degree ((~~under subsection (1)(a) of this section is a gross misdemeanor if the damage to the property is in an amount exceeding fifty dollars.~~

~~(b) Malicious mischief in the third degree under subsection (1)(a) of this section is a misdemeanor if the damage to the property is fifty dollars or less.~~

~~(c) Malicious mischief in the third degree under subsection (1)(b) of this section~~)) is a gross misdemeanor.

Sec. 4. RCW 9A.56.010 and 2002 c 97 s 1 are each amended to read as follows:

The following definitions are applicable in this chapter unless the context otherwise requires:

(1) "Access device" means any card, plate, code, account number, or other means of account access that can be used alone or in conjunction with another access device to obtain money, goods, services, or anything else of value, or that can be used to initiate a transfer of funds, other than a transfer originated solely by paper instrument;

(2) "Appropriate lost or misdelivered property or services" means obtaining or exerting control over the property or services of another which the actor knows to have been lost or mislaid, or to have been delivered under a mistake as to identity of the recipient or as to the nature or amount of the property;

(3) "Beverage crate" means a plastic or metal box-like container used by a manufacturer or distributor in the transportation or distribution of individually packaged beverages to retail outlets, and affixed with language stating "property of . . . . .," "owned by . . . . .," or other markings or words identifying ownership;

(4) "By color or aid of deception" means that the deception operated to bring about the obtaining of the property or services; it is not necessary that deception be the sole means of obtaining the property or services;

(5) "Deception" occurs when an actor knowingly:

(a) Creates or confirms another's false impression which the actor knows to be false; or

(b) Fails to correct another's impression which the actor previously has created or confirmed; or

(c) Prevents another from acquiring information material to the disposition of the property involved; or

(d) Transfers or encumbers property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether that impediment is or is not valid, or is or is not a matter of official record; or

(e) Promises performance which the actor does not intend to perform or knows will not be performed.

(6) "Deprive" in addition to its common meaning means to make unauthorized use or an unauthorized copy of records, information, data, trade secrets, or computer programs;

(7) "Merchandise pallet" means a wood or plastic carrier designed and manufactured as an item on which products can be placed before or during transport to retail outlets, manufacturers, or contractors, and affixed with language stating "property of . . .," "owned by . . .," or other markings or words identifying ownership;

(8) "Obtain control over" in addition to its common meaning, means:

(a) In relation to property, to bring about a transfer or purported transfer to the obtainer or another of a legally recognized interest in the property; or

(b) In relation to labor or service, to secure performance thereof for the benefits of the obtainer or another;

(9) "Owner" means a person, other than the actor, who has possession of or any other interest in the property or services involved, and without whose consent the actor has no authority to exert control over the property or services;

(10) "Parking area" means a parking lot or other property provided by retailers for use by a customer for parking an automobile or other vehicle;

(11) "Receive" includes, but is not limited to, acquiring title, possession, control, or a security interest, or any other interest in the property;

(12) "Services" includes, but is not limited to, labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam, and water;

(13) "Shopping cart" means a basket mounted on wheels or similar container generally used in a retail establishment by a customer for the purpose of transporting goods of any kind;

(14) "Stolen" means obtained by theft, robbery, or extortion;

(15) "Subscription television service" means cable or encrypted video and related audio and data services intended for viewing on a home television by authorized members of the public only, who have agreed to pay a fee for the service. Subscription services include but are not limited to those video services presently delivered by coaxial cable, fiber optic cable, terrestrial microwave, television broadcast, and satellite transmission;

(16) "Telecommunication device" means (a) any type of instrument, device, machine, or equipment that is capable of transmitting or receiving telephonic or electronic communications; or (b) any part of such an instrument, device, machine, or equipment, or any computer circuit, computer chip, electronic mechanism, or other component, that is capable of facilitating the transmission or reception of telephonic or electronic communications;

(17) "Telecommunication service" includes any service other than subscription television service provided for a charge or compensation to facilitate the transmission, transfer, or reception of a telephonic communication or an electronic communication;

(18) Value. (a) "Value" means the market value of the property or services at the time and in the approximate area of the criminal act.

(b) Whether or not they have been issued or delivered, written instruments, except those having a readily ascertained market value, shall be evaluated as follows:

(i) The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, shall be deemed the amount due or collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied;

(ii) The value of a ticket or equivalent instrument which evidences a right to receive transportation, entertainment, or other service shall be deemed the price stated thereon, if any; and if no price is stated thereon, the value shall be deemed the price of such ticket or equivalent instrument which the issuer charged the general public;

(iii) The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

(c) Except as provided in (f) of this subsection, whenever any series of transactions which constitute theft, would, when considered separately, constitute theft in the third degree because of value, and said series of transactions are a part of a criminal episode or a common scheme or plan, then the transactions may be aggregated in one count and the sum of the value of all said transactions shall be the value considered in determining the degree of theft involved.

For purposes of this subsection, "criminal episode" means a series of thefts committed by the same person from one or more mercantile establishments on three or more occasions within a five-day period.

(d) Whenever any person is charged with possessing stolen property and such person has unlawfully in his possession at the same time the stolen property of more than one person, then the stolen property possessed may be aggregated in one count and the sum of the value of all said stolen property shall be the value considered in determining the degree of theft involved.

(e) Property or services having value that cannot be ascertained pursuant to the standards set forth above shall be deemed to be of a value not exceeding ((~~two~~)) seven hundred and fifty dollars.

(f) 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 of the property shall be the value considered in determining the degree of the theft;

(19) "Wrongfully obtains" or "exerts unauthorized control" means:

(a) To take the property or services of another;

(b) Having any property or services in one's possession, custody or control as bailee, factor, lessee, pledgee, renter, servant, attorney, agent, employee, trustee, executor, administrator, guardian, or officer of any person, estate, association, or corporation, or as a public officer, or person authorized by agreement or competent authority to take or hold such possession, custody, or control, to secrete, withhold, or appropriate the same to his or her own use or to the use of any person other than the true owner or person entitled thereto; or

(c) Having any property or services in one's possession, custody, or control as partner, to secrete, withhold, or appropriate the same to his or her use or to the use of any person other than the true owner or person entitled thereto, where the use is unauthorized by the partnership agreement.

Sec. 5. RCW 9A.56.030 and 2005 c 212 s 2 are each amended to read as follows:

(1) A person is guilty of theft in the first degree if he or she commits theft of:

(a) Property or services which exceed(s) ((~~one~~)) two thousand five hundred dollars in value other than a firearm as defined in RCW 9.41.010;

(b) Property of any value other than a firearm as defined in RCW 9.41.010 taken from the person of another; or

(c) A search and rescue dog, as defined in RCW 9.91.175, while the search and rescue dog is on duty.

(2) Theft in the first degree is a class B felony.

Sec. 6. RCW 9A.56.040 and 1995 c 129 s 12 are each amended to read as follows:

(1) A person is guilty of theft in the second degree if he or she commits theft of:

(a) Property or services which exceed(s) ((~~two~~)) seven hundred and fifty dollars in value other than a firearm as defined in RCW 9.41.010, but does not exceed ((~~one~~)) two thousand five hundred dollars in value; or

(b) A public record, writing, or instrument kept, filed, or deposited according to law with or in the keeping of any public office or public servant; or

(c) An access device; or

(d) A motor vehicle, of a value less than ((~~one~~)) two thousand five hundred dollars.

(2) Theft in the second degree is a class C felony.

Sec. 7. RCW 9A.56.050 and 1998 c 236 s 4 are each amended to read as follows:

(1) A person is guilty of theft in the third degree if he or she commits theft of property or services which (a) does not exceed ((~~two~~)) seven hundred and fifty dollars in value, or (b) includes ten or more merchandise pallets, or ten or more beverage crates, or a combination of ten or more merchandise pallets and beverage crates.

(2) Theft in the third degree is a gross misdemeanor.

Sec. 8. RCW 9A.56.060 and 1982 c 138 s 1 are each amended to read as follows:

(1) Any person who shall with intent to defraud, make, or draw, or utter, or deliver to another person any check, or draft, on a bank or other depository for the payment of money, knowing at the time of such drawing, or delivery, that he or she has not sufficient funds in, or credit with ((~~said~~)) the bank or other depository, to meet ((~~said~~)) the check or draft, in full upon its presentation, ((~~shall be~~)) is guilty of unlawful issuance of a bank check. The word "credit" as used herein shall be construed to mean an arrangement or understanding with the bank or other depository for the payment of such check or draft, and the uttering or delivery of such a check or draft to another person without such fund or credit to meet the same shall be prima facie evidence of an intent to defraud.

(2) Any person who shall with intent to defraud, make, or draw, or utter, or deliver to another person any check, or draft on a bank or other depository for the payment of money and who issues a stop-payment order directing the bank or depository on which the check is drawn not to honor ((~~said~~)) the check, and who fails to make payment of money in the amount of the check or draft or otherwise arrange a settlement agreed upon by the holder of the check within twenty days of issuing ((~~said~~)) the check or draft ((~~shall be~~)) is guilty of unlawful issuance of a bank check.

(3) When any series of transactions which constitute unlawful issuance of a bank check would, when considered separately, constitute unlawful issuance of a bank check in an amount of ((~~two~~)) seven hundred fifty dollars or less because of value, and the series of transactions are a part of a common scheme or plan, the transactions may be aggregated in one count and the sum of the value of all of the transactions shall be the value considered in determining whether the unlawful issuance of a bank check is to be punished as a class C felony or a gross misdemeanor. Any series of transactions aggregated in one

county may be prosecuted in any county in which one of the unlawful issuances occurred.

(4) Unlawful issuance of a bank check in an amount greater than ((~~two~~)) seven hundred fifty dollars is a class C felony.

(5) Unlawful issuance of a bank check in an amount of ((~~two~~)) seven hundred fifty dollars or less is a gross misdemeanor and shall be punished as follows:

(a) The court shall order the defendant to make full restitution;

(b) The defendant need not be imprisoned, but the court shall impose a minimum fine of five hundred dollars. Of the fine imposed, at least fifty dollars shall not be suspended or deferred. Upon conviction for a second offense within any twelve-month period, the court may suspend or defer only that portion of the fine which is in excess of five hundred dollars.

Sec. 9. RCW 9A.56.096 and 2003 c 53 s 77 are each amended to read as follows:

(1) A person who, with intent to deprive the owner or owner's agent, wrongfully obtains, or exerts unauthorized control over, or by color or aid of deception gains control of personal property that is rented or leased to the person, is guilty of theft of rental, leased, or lease-purchased property.

(2) The finder of fact may presume intent to deprive if the finder of fact finds either of the following:

(a) That the person who rented or leased the property failed to return or make arrangements acceptable to the owner of the property or the owner's agent to return the property to the owner or the owner's agent within seventy-two hours after receipt of proper notice following the due date of the rental, lease, or lease-purchase agreement; or

(b) That the renter or lessee presented identification to the owner or the owner's agent that was materially false, fictitious, or not current with respect to name, address, place of employment, or other appropriate items.

(3) As used in subsection (2) of this section, "proper notice" consists of a written demand by the owner or the owner's agent made after the due date of the rental, lease, or lease-purchase period, mailed by certified or registered mail to the renter or lessee at: (a) The address the renter or lessee gave when the contract was made; or (b) the renter or lessee's last known address if later furnished in writing by the renter, lessee, or the agent of the renter or lessee.

(4) The replacement value of the property obtained must be utilized in determining the amount involved in the theft of rental, leased, or lease-purchased property.

(5)(a) Theft of rental, leased, or lease-purchased property is a class B felony if the rental, leased, or lease-purchased property is valued at ((~~one~~)) two thousand five hundred dollars or more.

(b) Theft of rental, leased, or lease-purchased property is a class C felony if the rental, leased, or lease-purchased property is valued at ((~~two~~)) seven hundred fifty dollars or more but less than ((~~one~~)) two thousand five hundred dollars.

(c) Theft of rental, leased, or lease-purchased property is a gross misdemeanor if the rental, leased, or lease-purchased property is valued at less than ((~~two~~)) seven hundred fifty dollars.

(6) This section applies to rental agreements that provide that the renter may return the property any time within the rental period and pay only for the time the renter actually retained the property, in addition to any minimum rental fee, to lease agreements, and to lease-purchase agreements as defined under RCW 63.19.010. This section does not apply to rental or leasing of real property under the residential landlord-tenant act, chapter 59.18 RCW.

Sec. 10. RCW 9A.56.150 and 1995 c 129 s 14 are each amended to read as follows:

(1) A person is guilty of possessing stolen property in the first degree if he or she possesses stolen property other than a firearm as defined in RCW 9.41.010 which exceeds ((~~one~~)) two thousand five hundred dollars in value.

(2) Possessing stolen property in the first degree is a class B felony.

Sec. 11. RCW 9A.56.160 and 1995 c 129 s 15 are each amended to read as follows:

(1) A person is guilty of possessing stolen property in the second degree if:

(a) He or she possesses stolen property other than a firearm as defined in RCW 9.41.010 which exceeds ((~~two~~)) seven hundred fifty dollars in value but does not exceed ((~~one~~)) two thousand five hundred dollars in value; or

(b) He or she possesses a stolen public record, writing or instrument kept, filed, or deposited according to law; or

(c) He or she possesses a stolen access device; or

(d) He or she possesses a stolen motor vehicle of a value less than ((~~one~~)) two thousand five hundred dollars.

(2) Possessing stolen property in the second degree is a class C felony.

Sec. 12. RCW 9A.56.170 and 1998 c 236 s 2 are each amended to read as follows:

(1) A person is guilty of possessing stolen property in the third degree if he or she possesses (a) stolen property which does not exceed ((~~two~~)) seven hundred fifty dollars in value, or (b) ten or more stolen merchandise pallets, or ten or more stolen beverage crates, or a combination of ten or more stolen merchandise pallets and beverage crates.

(2) Possessing stolen property in the third degree is a gross misdemeanor.

NEW SECTION. **Sec. 13.** A new section is added to chapter 9A.48 RCW to read as follows:

(1) When any series of acts which constitute malicious mischief would, when considered separately, constitute malicious mischief in the second degree or third degree because of the value of the damages, and the series of acts are a part of a common scheme or plan, the acts may be aggregated in one count and the sum of the value of the damages of all of the acts shall be the value considered in determining the degree of the malicious mischief involved.

(2) Any series of acts committed by the same person in different counties that have been aggregated in one county may be prosecuted in any county in which one of the acts occurred.

NEW SECTION. **Sec. 14.** A new section is added to chapter 9A.56 RCW to read as follows:

Any series of thefts committed by the same person in different counties that have been aggregated in one county may be prosecuted in any county in which one of the thefts occurred.

Sec. 15. RCW 9A.82.050 and 2003 c 53 s 86 are each amended to read as follows:

(1) A person who:

(a) Knowingly initiates, organizes, plans, finances, directs, manages, or supervises the theft of property for sale to others((~~; or~~));

(b) Who knowingly traffics in stolen property; or

(c) Commits a series of thefts from one or more mercantile establishments over a period of one hundred eighty days that have been aggregated in one count under section 14 of this act,

is guilty of trafficking in stolen property in the first degree.

(2) Trafficking in stolen property in the first degree is a class B felony.

NEW SECTION. **Sec. 16.** Any series of acts of trafficking in stolen property committed by the same person in different counties that have been aggregated in one county may be prosecuted in any county in which one of the acts occurred."

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "crimes against personal property; amending RCW 9A.48.070, 9A.48.080, 9A.48.090, 9A.56.010, 9A.56.030, 9A.56.040, 9A.56.050, 9A.56.060, 9A.56.096, 9A.56.150, 9A.56.160, 9A.56.170, and 9A.82.050; adding a new section to chapter 9A.48 RCW; adding a new section to chapter 9A.56 RCW; creating a new section; and prescribing penalties."

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

Senators Johnson, Rasmussen and Sheldon spoke against adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary to House Bill No. 2704.

The motion by Senator Kline failed and the committee striking amendment was not adopted by voice vote.

MOTION

On motion of Senator Johnson, the rules were suspended, House Bill No. 2704 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Johnson spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2704.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2704 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Absent: Senator Kline - 1

Excused: Senator McCaslin - 1

HOUSE BILL NO. 2704, 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 Oke: “Just want to share with the body. This was a wonderful morning and I just came back from the House and no more sampling in the state of Washington. The entire state is shut down.”

PERSONAL PRIVILEGE

Senator Deccio: “You know a lot of bills died and some of them had bad aromas but there's one bill that died that had a very sweet aroma and that was the onion bill. I just wanted to relay the story. My father came to Walla Walla one-hundred seven years ago and was one of the pioneer onion growers in the state of Washington. I just thought I would tell you the story that I still have relatives raising onions in Walla Walla. I thought maybe this story would bring tears to your eyes. Thank you.”

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2457, by House Committee on Finance (originally sponsored by Representatives Grant, Williams, Blake, Clibborn, Linville, Cox, Buck, Haigh, Sump, Newhouse, Walsh, Buri, Haler, Morrell, Morris, Ericks, Strow, O'Brien and Holmquist)

Providing excise tax relief for farm machinery and equipment. Revised for 1st Substitute: Authorizing sales and use tax exemptions for replacement parts for farm machinery and equipment.

The measure was read the second time.

MOTION

Senator Doumit moved that the following committee striking amendment by the Committee on Ways & Means be not adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to the sale to a farmer of replacement parts for farm machinery and equipment.

(2) A person claiming an exemption under this section must keep records necessary for the department to verify eligibility under this section. An exemption is available only when the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller shall retain a copy of the certificate for the seller's files.

(3) The definitions in this subsection apply to this section.

(a) "Agricultural products" has the meaning provided in RCW 82.04.213.

(b) "Farmer" means a farmer as defined in RCW 82.04.213 whose gross proceeds of sales of agricultural products grown, raised, or produced by that person is at least ten thousand dollars in the calendar year in which an exemption under this section is claimed.

(c) "Farm machinery and equipment" means machinery and equipment used primarily for growing, raising, or producing agricultural products. "Farm machinery and equipment" does not include:

(i) Farm vehicles and other vehicles as those terms are defined in chapter 46.04 RCW, except farm tractors as defined in RCW 46.04.180 and other farm implements. For purposes of this subsection (3)(c)(i), "farm implement" does not include lawn tractors and all-terrain vehicles;

(ii) Aircraft;

(iii) Hand tools and hand-powered tools; and

(iv) Property with a useful life of less than one year.

(d) "Replacement parts" means those parts that replace an existing part, or which are essential to maintain the working condition, of a piece of farm machinery or equipment. However, "replacement parts" shall not include paint, fuel, oil, grease, hydraulic fluids, antifreeze, and similar items.

NEW SECTION. **Sec. 2.** A new section is added to chapter 82.12 RCW to read as follows:

(1) The provisions of this chapter do not apply in respect to the use by a farmer of replacement parts for farm machinery and equipment.

(2) The definitions and recordkeeping requirements in section 1 of this act, other than the exemption certificate requirement, apply to this section.

NEW SECTION. **Sec. 3.** This act takes effect July 1, 2006."

On page 1, line 2 of the title, after "equipment;" strike the remainder of the title and insert "adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; and providing an effective date."

The President declared the question before the Senate to be motion by Senator Doumit to not adopt the committee striking

amendment by the Committee on Ways & Means to Substitute House Bill No. 2457.

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

MOTION

Senator Doumit moved that the following striking amendment by Senators Doumit, Schoesler and Prentice be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to the sale to an eligible farmer of replacement parts for qualifying farm machinery and equipment.

(2) Notwithstanding anything to the contrary in this chapter, if replacement parts are installed by the seller during the course of repairing, cleaning, altering, or improving qualifying farm machinery and equipment and the seller makes a separate charge for the parts, the tax levied by RCW 82.08.020 does not apply to the separately stated charge to an eligible farmer for replacement parts but only if the separately stated charge does not exceed either the seller's current publicly stated retail price for the parts or, if no separately stated retail price is available, the seller's cost for the parts. However, the exemption provided by this section shall not apply if replacement parts are installed by the seller during the course of repairing, cleaning, altering, or improving qualifying farm machinery and equipment and the seller makes a single nonitemized charge for providing the parts and service.

(3)(a) A person claiming an exemption under this section must keep records necessary for the department to verify eligibility under this section. An exemption is available only when the buyer provides the seller with an exemption certificate issued by the department containing such information as the department requires. The exemption certificate shall be in a form and manner prescribed by the department. The seller shall retain a copy of the certificate for the seller's files.

(b) The department shall provide an exemption certificate to an eligible farmer or renew an exemption certificate, upon application by that eligible farmer. The application must be in a form and manner prescribed by the department and shall contain the following information as required by the department:

(i) The name and address of the applicant;

(ii) The uniform business identifier or tax reporting account number of the applicant, if the applicant is required to be registered with the department;

(iii) The type of farming engaged in;

(iv) A copy of the applicant's Schedule F of Form 1040, Form 1120, or other applicable form filed with the internal revenue service indicating the gross sales of agricultural products by the applicant in the calendar year immediately preceding the year that the application was made to the department. If application is made before the due date of the applicant's federal income tax return for the prior calendar year, or any extension of the due date, the applicant shall provide a copy of the appropriate federal income tax form that was due for the second calendar year immediately preceding the year that the application is made to the department. If the applicant is not required to file federal income tax returns, the department may require the applicant to provide copies of other documents establishing the amount of the applicant's gross sales of agricultural products for the relevant calendar year;

(v) The name of the individual authorized to sign the certificate, printed in a legible fashion;

(vi) The signature of the authorized individual; and

(vii) Other information the department may require to verify the applicant's eligibility for the exemption.

(c)(i) Except as otherwise provided in this section, exemption certificates issued by the department are not transferable and are valid for the calendar year in which the certificate is issued and the following four calendar years. The department shall attempt to notify holders of exemption certificates of the impending expiration of the certificate at least sixty days before the certificate expires and shall provide an application for renewal of the certificate.

(ii) When a certificate holder merely changes identity or form of ownership of an entity and there is no change in beneficial ownership, the exemption certificate shall be transferred to the new entity upon notice to the department by the transferor or transferee.

(d)(i) Exemption certificates issued to persons who are eligible farmers under subsection (4)(b)(iii) of this section are conditioned on the person making at least ten thousand dollars of gross sales of agricultural products grown, raised, or produced by that person in the first full calendar year that the person engages in business as a farmer.

(ii) A person who is issued a conditional exemption certificate must provide the department with a copy of the person's Schedule F of Form 1040, Form 1120, or other applicable form filed with the internal revenue service indicating the gross sales of agricultural products by the person in the first full calendar year that the person engaged in business as a farmer. If a person is not required to file federal income tax returns, the person shall provide copies of other documents establishing the amount of the person's gross sales of agricultural products for the first full calendar year that the person engaged in business as a farmer. The documentation required in this subsection (3)(d)(ii) is due no later than December 31st of the year immediately following the first full calendar year in which the person engaged in business as a farmer.

(iii) If a person fails to provide the required documentation to the department by the due date or any extension granted by the department, or if the condition in (d)(i) of this subsection is not met, the department shall revoke the exemption certificate. The department shall notify the person in writing of the revocation and the person's responsibility, and due date, for repayment of any taxes for which an exemption under this section was claimed. Any taxes for which an exemption under this section was claimed shall be due and payable within thirty days of the date of the notice revoking the certificate. The department shall assess interest on the taxes for which the exemption was claimed. Interest shall be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW, retroactively to the date the exemption was claimed, and shall accrue until the taxes for which the exemption was claimed are repaid. Penalties shall not be imposed on any tax required to be repaid if full payment is received by the due date. Nothing in this subsection (3)(d) prohibits a person from reapplying for an exemption certificate.

(4) The definitions in this subsection apply to this section.

(a) "Agricultural products" has the meaning provided in RCW 82.04.213.

(b) "Eligible farmer" means:

(i) A farmer as defined in RCW 82.04.213 whose gross proceeds of sales of agricultural products grown, raised, or produced by that person is at least ten thousand dollars in the calendar year immediately preceding the year in which a claim of exemption is made under this section;

(ii) The transferee of an exemption certificate under subsection (3)(c)(ii) of this section where the transferred certificate expires before the transferee engages in farming operations for a full calendar year, if the combined gross proceeds of sales by the transferor and transferee of agricultural products that they have grown, raised, or produced meet the requirements of (b)(i) of this subsection;

(iii) A farmer as defined in RCW 82.04.213, who does not meet the definition of "eligible farmer" in (b)(i) or (ii) of this

subsection, and who did not engage in farming for the entire calendar year immediately preceding the year in which application for exemption under this section is made and who did not engage in farming in any other year;

(iv) Anyone who otherwise meets the definition of "eligible farmer" in this subsection except that they are not a "person" as defined in RCW 82.04.030.

(c) "Qualifying farm machinery and equipment" means machinery and equipment used primarily for growing, raising, or producing agricultural products. "Qualifying farm machinery and equipment" does not include:

(i) Farm vehicles and other vehicles as those terms are defined in chapter 46.04 RCW, except farm tractors as defined in RCW 46.04.180 and other farm implements. For purposes of this subsection (4)(c)(i), "farm implement" does not include lawn tractors and all-terrain vehicles;

(ii) Aircraft;

(iii) Hand tools and hand-powered tools; and

(iv) Property with a useful life of less than one year.

(d) "Replacement parts" means those parts that replace an existing part, or which are essential to maintain the working condition, of a piece of qualifying farm machinery or equipment. However, "replacement parts" shall not include paint, fuel, oil, grease, hydraulic fluids, antifreeze, and similar items.

NEW SECTION. **Sec. 2.** A new section is added to chapter 82.12 RCW to read as follows:

(1) The provisions of this chapter do not apply in respect to the use by an eligible farmer of replacement parts for qualifying farm machinery and equipment.

(2) Notwithstanding anything to the contrary in this chapter, if replacement parts are installed by the seller during the course of repairing, cleaning, altering, or improving qualifying farm machinery and equipment and the seller makes a separate charge for the parts, the tax imposed by this chapter does not apply to the separately stated charge to an eligible farmer for replacement parts but only if the separately stated charge does not exceed either the seller's current publicly stated retail price for the parts or, if no separately stated retail price is available, the seller's cost for the parts. However, the exemption provided by this section shall not apply if replacement parts are installed by the seller during the course of repairing, cleaning, altering, or improving qualifying farm machinery and equipment and the seller makes a single nonitemized charge for providing the parts and service.

(3) The definitions and recordkeeping requirements in section 1 of this act, other than the exemption certificate requirement, apply to this section.

NEW SECTION. **Sec. 3.** This act takes effect July 1, 2006."

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

MOTION

On motion of Senator Regala, Senators Fairley, Kline and Thibaudeau were excused.

MOTION

On motion of Senator Schoesler, Senator Benson was excused.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Doumit, Schoesler and Prentice to Substitute House Bill No. 2457.

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

MOTION

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

On page 1, line 2 of the title, after "equipment;" strike the remainder of the title and insert "adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; and providing an effective date."

MOTION

On motion of Senator Doumit, the rules were suspended, Substitute House Bill No. 2457 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Doumit spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2457 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2457 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 40; Nays, 4; Absent, 0; Excused, 5.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Finkbeiner, Franklin, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker and Zarelli - 40

Voting nay: Senators Fraser, Kohl-Welles, Pridemore and Weinstein - 4

Excused: Senators Benson, Fairley, Kline, McCaslin and Thibaudeau - 5

SUBSTITUTE HOUSE BILL NO. 2457 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, the Senate reverted to the fifth order of business.

INTRODUCTION AND FIRST READING

ESCR 8419 by Senator Carrell

Exempting HB 3317 from the cutoff resolution.

SCR 8420 by Senators Benton and Carrell

Exempting SB 6388 from the cutoff resolution.

SCR 8421 by Senators McCaslin and Deccio

Exempting SJR 8224 from the cutoff resolution.

SCR 8422 by Senator Zarelli

Exempting SJR 8222 and SB 6471 from the cutoff resolution.

MOTION

On motion of Senator Eide, the measures listed on the Introduction and First Reading report were held at the desk.

MOTION

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

MESSAGE FROM THE HOUSE

March 2, 2006

MR. PRESIDENT:
The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6885, with the following amendments{s} 6885-S.E AMH . . . . H5501.3.

Strike everything after the enacting clause and insert the following:

"PART I - BENEFIT PROVISIONS

Sec. 1 RCW 50.20.120 and 2005 c 133 s 3 are each amended to read as follows:

(1)(a) Subject to the other provisions of this title, benefits shall be payable to any eligible individual during the individual's benefit year in a maximum amount equal to the lesser of thirty times the weekly benefit amount, as determined in subsection

(2) of this section, or one-third of the individual's base year wages under this title: PROVIDED, That as to any week which falls in an extended benefit period as defined in RCW 50.22.010

(1), an individual's eligibility for maximum benefits in excess of twenty-six times his or her weekly benefit amount will be subject to the terms and conditions set forth in RCW 50.22.020.

(b) With respect to claims that have an effective date on or after the first Sunday of the calendar month immediately following the month in which the commissioner finds that the state unemployment rate is six and eight-tenths percent or less, benefits shall be payable to any eligible individual during the individual's benefit year in a maximum amount equal to the lesser of twenty-six times the weekly benefit amount, as determined in subsection

(2) of this section, or one-third of the individual's base year wages under this title.

(2)(a) For claims with an effective date before January 4, 2004, an individual's weekly benefit amount shall be an amount equal to one twenty-fifth of the average quarterly wages of the individual's total wages during the two quarters of the individual's base year in which such total wages were highest.

(b) With respect to claims with an effective date on or after January 4, 2004, and before January 2, 2005, an individual's weekly benefit amount shall be an amount equal to one twenty-fifth of the average quarterly wages of the individual's total wages during the three quarters of the individual's base year in which such total wages were highest.

(c)(i) With respect to claims with an effective date on or after January 2, 2005, except as provided in

(c)(ii) of this subsection, an individual's weekly benefit amount shall be an amount equal to one percent of the total wages paid in the individual's base year.

(ii) With respect to claims with an effective date on or after the first Sunday following April 22, 2005, ((~~and before July 1, 2007,~~)) an individual's weekly benefit amount shall be an amount equal to three and eighty-five one-hundredths percent of the average quarterly wages of the individual's total wages during the two quarters of the individual's base year in which such total wages were highest.

(3) The maximum and minimum amounts payable weekly shall be determined as of each June 30th to apply to benefit years beginning in the twelve-month period immediately following such June 30th.

(a)(i) With respect to claims that have an effective date before January 4, 2004, the maximum amount payable weekly shall be seventy percent of the "average weekly wage" for the calendar year preceding such June 30th.

(ii) With respect to claims that have an effective date on or after January 4, 2004, the maximum amount payable weekly shall be either four hundred ninety-six dollars or sixty-three percent of the "average weekly wage" for the calendar year preceding such June 30th, whichever is greater.

(b) The minimum amount payable weekly shall be fifteen percent of the "average weekly wage" for the calendar year preceding such June 30th.

(4) If any weekly benefit, maximum benefit, or minimum benefit amount computed herein is not a multiple of one dollar, it shall be reduced to the next lower multiple of one dollar.

Sec. 2 RCW 50.20.050 and 2003 2nd sp.s. c 4 s 4 are each amended to read as follows:

(1) With respect to claims that have an effective date before January 4, 2004:

(a) An individual shall be disqualified from benefits beginning with the first day of the calendar week in which he or she has left work voluntarily without good cause and thereafter for seven calendar weeks and until he or she has obtained bona fide work in employment covered by this title and earned wages in that employment equal to seven times his or her weekly benefit amount. The disqualification shall continue if the work obtained is a mere sham to qualify for benefits and is not bona fide work. In determining whether work is of a bona fide nature, the commissioner shall consider factors including but not limited to the following:

(i) The duration of the work;

(ii) The extent of direction and control by the employer over the work; and

(iii) The level of skill required for the work in light of the individual's training and experience.

(b) An individual shall not be considered to have left work voluntarily without good cause when:

(i) He or she has left work to accept a bona fide offer of bona fide work as described in (a) of this subsection;

(ii) The separation was because of the illness or disability of the claimant or the death, illness, or disability of a member of the claimant's immediate family if the claimant took all reasonable precautions, in accordance with any regulations that the commissioner may prescribe, to protect his or her employment status by having promptly notified the employer of the reason for the absence and by having promptly requested reemployment when again able to assume employment: PROVIDED, That these precautions need not have been taken when they would have been a futile act, including those instances when the futility of the act was a result of a recognized labor/management dispatch system;

(iii) He or she has left work to relocate for the spouse's employment that is due to an employer-initiated mandatory transfer that is outside the existing labor market area if the claimant remained employed as long as was reasonable prior to the move; or

(iv) The separation was necessary to protect the claimant or the claimant's immediate family members from domestic violence, as defined in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110.

(c) In determining under this subsection whether an individual has left work voluntarily without good cause, the commissioner shall only consider work-connected factors such

as the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness for the work, the individual's ability to perform the work, and such other work connected factors as the commissioner may deem pertinent, including state and national emergencies. Good cause shall not be established for voluntarily leaving work because of its distance from an individual's residence where the distance was known to the individual at the time he or she accepted the employment and where, in the judgment of the department, the distance is customarily traveled by workers in the individual's job classification and labor market, nor because of any other significant work factor which was generally known and present at the time he or she accepted employment, unless the related circumstances have so changed as to amount to a substantial involuntary deterioration of the work factor or unless the commissioner determines that other related circumstances would work an unreasonable hardship on the individual were he or she required to continue in the employment.

(d) Subsection (1)(a) and (c) of this section shall not apply to an individual whose marital status or domestic responsibilities cause him or her to leave employment. Such an individual shall not be eligible for unemployment insurance benefits beginning with the first day of the calendar week in which he or she left work and thereafter for seven calendar weeks and until he or she has requalified, either by obtaining bona fide work in employment covered by this title and earning wages in that employment equal to seven times his or her weekly benefit amount or by reporting in person to the department during ten different calendar weeks and certifying on each occasion that he or she is ready, able, and willing to immediately accept any suitable work which may be offered, is actively seeking work pursuant to customary trade practices, and is utilizing such employment counseling and placement services as are available through the department. This subsection does not apply to individuals covered by (b)(ii) or (iii) of this subsection.

(2) With respect to claims that have an effective date on or after January 4, 2004:

(a) An individual shall be disqualified from benefits beginning with the first day of the calendar week in which he or she has left work voluntarily without good cause and thereafter for seven calendar weeks and until he or she has obtained bona fide work in employment covered by this title and earned wages in that employment equal to seven times his or her weekly benefit amount. The disqualification shall continue if the work obtained is a mere sham to qualify for benefits and is not bona fide work. In determining whether work is of a bona fide nature, the commissioner shall consider factors including but not limited to the following:

(i) The duration of the work;

(ii) The extent of direction and control by the employer over the work; and

(iii) The level of skill required for the work in light of the individual's training and experience.

(b) An individual is not disqualified from benefits under (a) of this subsection when:

(i) He or she has left work to accept a bona fide offer of bona fide work as described in (a) of this subsection;

(ii) The separation was necessary because of the illness or disability of the claimant or the death, illness, or disability of a member of the claimant's immediate family if:

(A) The claimant pursued all reasonable alternatives to preserve his or her employment status by requesting a leave of absence, by having promptly notified the employer of the reason for the absence, and by having promptly requested reemployment when again able to assume employment. These alternatives need not be pursued, however, when they would have been a futile act, including those instances when the futility of the act was a result of a recognized labor/management dispatch system; and

(B) The claimant terminated his or her employment status, and is not entitled to be reinstated to the same position or a comparable or similar position;

(iii)(A) With respect to claims that have an effective date before July 2, 2006, he or she: ((~~(A)~~)) (I) Left work to relocate for the spouse's employment that, due to a mandatory military transfer: (((~~(I)~~))) (1) Is outside the existing labor market area; and (((~~(II)~~))) (2)is in Washington or another state that, pursuant to statute, does not consider such an individual to have left work voluntarily without good cause; and ((~~(B)~~)) (II) remained employed as long as was reasonable prior to the move;

(B) With respect to claims that have an effective date on or after July 2, 2006, he or she: (I) Left work to relocate for the spouse's employment that, due to a mandatory military transfer, is outside the existing labor market area; and (II) remained employed as long as was reasonable prior to the move;

(iv) The separation was necessary to protect the claimant or the claimant's immediate family members from domestic violence, as defined in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;

(v) The individual's usual compensation was reduced by twenty-five percent or more;

(vi) The individual's usual hours were reduced by twenty-five percent or more;

(vii) The individual's worksite changed, such change caused a material increase in distance or difficulty of travel, and, after the change, the commute was greater than is customary for workers in the individual's job classification and labor market;

(viii) The individual's worksite safety deteriorated, the individual reported such safety deterioration to the employer, and the employer failed to correct the hazards within a reasonable period of time;

(ix) The individual left work because of illegal activities in the individual's worksite, the individual reported such activities to the employer, and the employer failed to end such activities within a reasonable period of time; or

(x) The individual's usual work was changed to work that violates the individual's religious convictions or sincere moral beliefs.

NEW SECTION. **Sec. 3** 2005 c 133 s 10 (uncodified) is repealed.

PART II - TAX PROVISIONS

Sec. 4 RCW 50.29.025 and 2005 c 133 s 5 are each amended to read as follows:

(1) Except as provided in subsection

(2) of this section, the contribution rate for each employer subject to contributions under RCW 50.24.010 shall be determined under this subsection.

(a) A fund balance ratio shall be determined by dividing the balance in the unemployment compensation fund as of the September 30th immediately preceding the rate year by the total remuneration paid by all employers subject to contributions during the second calendar year preceding the rate year and reported to the department by the following March 31st. The division shall be carried to the fourth decimal place with the remaining fraction, if any, disregarded. The fund balance ratio shall be expressed as a percentage.

(b) The interval of the fund balance ratio, expressed as a percentage, shall determine which tax schedule in (e) of this subsection shall be in effect for assigning tax rates for the rate year. The intervals for determining the effective tax schedule shall be:

Interval of the Fund Balance Ratio Expressed as a Percentage	Effective Tax Schedule
2.90 and above	AA
2.10 to 2.89	A

1.70 to 2.09	B
1.40 to 1.69	C
1.00 to 1.39	D
0.70 to 0.99	E
Less than 0.70	F

(c) An array shall be prepared, listing all qualified employers in ascending order of their benefit ratios. The array shall show for each qualified employer: (i) Identification number; (ii) benefit ratio; (iii) taxable payrolls for the four calendar quarters immediately preceding the computation date and reported to the department by the cut-off date; (iv) a cumulative total of taxable payrolls consisting of the employer's taxable payroll plus the taxable payrolls of all other employers preceding him or her in the array; and (v) the percentage equivalent of the cumulative total of taxable payrolls.

(d) Each employer in the array shall be assigned to one of twenty rate classes according to the percentage intervals of cumulative taxable payrolls set forth in(e) of this subsection: PROVIDED, That if an employer's taxable payroll falls within two or more rate classes, the employer and any other employer with the same benefit ratio shall be assigned to the lowest rate class which includes any portion of the employer's taxable payroll.

(e) Except as provided in RCW 50.29.026, the contribution rate for each employer in the array shall be the rate specified in the following tables for the rate class to which he or she has been assigned, as determined under (d) of this subsection, within the tax schedule which is to be in effect during the rate year:

Percent of Cumulative Taxable Payrolls			Schedules of Contributions Rates for Effective Tax Schedule						
From	To	Rate Class	AA	A	B	C	D	E	F
0.00	5.00	1	0.47	0.47	0.57	0.97	1.47	1.87	2.47
5.01	10.00	2	0.47	0.47	0.77	1.17	1.67	2.07	2.67
10.01	15.00	3	0.57	0.57	0.97	1.37	1.77	2.27	2.87
15.01	20.00	4	0.57	0.73	1.11	1.51	1.90	2.40	2.98
20.01	25.00	5	0.72	0.92	1.30	1.70	2.09	2.59	3.08
25.01	30.00	6	0.91	1.11	1.49	1.89	2.29	2.69	3.18
30.01	35.00	7	1.00	1.29	1.69	2.08	2.48	2.88	3.27
35.01	40.00	8	1.19	1.48	1.88	2.27	2.67	3.07	3.47
40.01	45.00	9	1.37	1.67	2.07	2.47	2.87	3.27	3.66
45.01	50.00	10	1.56	1.86	2.26	2.66	3.06	3.46	3.86
50.01	55.00	11	1.84	2.14	2.45	2.85	3.25	3.66	3.95
55.01	60.00	12	2.03	2.33	2.64	3.04	3.44	3.85	4.15
60.01	65.00	13	2.22	2.52	2.83	3.23	3.64	4.04	4.34
65.01	70.00	14	2.40	2.71	3.02	3.43	3.83	4.24	4.54
70.01	75.00	15	2.68	2.90	3.21	3.62	4.02	4.43	4.63
75.01	80.00	16	2.87	3.09	3.42	3.81	4.22	4.53	4.73
80.01	85.00	17	3.27	3.47	3.77	4.17	4.57	4.87	4.97
85.01	90.00	18	3.67	3.87	4.17	4.57	4.87	4.97	5.17
90.01	95.00	19	4.07	4.27	4.57	4.97	5.07	5.17	5.37
95.01	100.00	20	5.40	5.40	5.40	5.40	5.40	5.40	5.40

(f) The contribution rate for each employer not qualified to be in the array shall be as follows:

(i) Employers who do not meet the definition of "qualified employer" by reason of failure to pay contributions when due shall be assigned a contribution rate two-tenths higher than that in rate class 20 for the applicable rate year, except employers who have an approved agency-deferred payment contract by September 30 of the previous rate year. If any employer with an approved agency-deferred payment contract fails to make any one of the succeeding deferred payments or fails to submit any succeeding tax report and payment in a timely manner, the employer's tax rate shall immediately revert to a contribution rate two-tenths higher than that in rate class 20 for the applicable rate year; and

(ii) For all other employers not qualified to be in the array, the contribution rate shall be a rate equal to the average industry

rate as determined by the commissioner; however, the rate may not be less than one percent.

(2) Beginning with contributions assessed for rate year 2005, the contribution rate for each employer subject to contributions under RCW 50.24.010 shall be the sum of the array calculation factor rate and the graduated social cost factor rate determined under this subsection, and the solvency surcharge determined under RCW 50.29.041, if any.

(a) The array calculation factor rate shall be determined as follows:

(i) An array shall be prepared, listing all qualified employers in ascending order of their benefit ratios. The array shall show for each qualified employer: (A) Identification number; (B) benefit ratio; and (C) taxable payrolls for the four consecutive calendar quarters immediately preceding the computation date and reported to the employment security department by the cut-off date.

(ii) Each employer in the array shall be assigned to one of forty rate classes according to his or her benefit ratio as follows, and, except as provided in RCW 50.29.026, the array calculation factor rate for each employer in the array shall be the rate specified in the rate class to which the employer has been assigned:

Benefit Ratio		Rate Class	Rate(percent)
At least	Less than		
	0.000001	1	0.00
0.000001	0.001250	2	0.13
0.001250	0.002500	3	0.25
0.002500	0.003750	4	0.38
0.003750	0.005000	5	0.50
0.005000	0.006250	6	0.63
0.006250	0.007500	7	0.75
0.007500	0.008750	8	0.88
0.008750	0.010000	9	1.00
0.010000	0.011250	10	1.15
0.011250	0.012500	11	1.30
0.012500	0.013750	12	1.45
0.013750	0.015000	13	1.60
0.015000	0.016250	14	1.75
0.016250	0.017500	15	1.90
0.017500	0.018750	16	2.05
0.018750	0.020000	17	2.20
0.020000	0.021250	18	2.35
0.021250	0.022500	19	2.50
0.022500	0.023750	20	2.65
0.023750	0.025000	21	2.80
0.025000	0.026250	22	2.95
0.026250	0.027500	23	3.10
0.027500	0.028750	24	3.25
0.028750	0.030000	25	3.40
0.030000	0.031250	26	3.55
0.031250	0.032500	27	3.70
0.032500	0.033750	28	3.85
0.033750	0.035000	29	4.00
0.035000	0.036250	30	4.15
0.036250	0.037500	31	4.30
0.037500	0.040000	32	4.45
0.040000	0.042500	33	4.60
0.042500	0.045000	34	4.75
0.045000	0.047500	35	4.90
0.047500	0.050000	36	5.05
0.050000	0.052500	37	5.20
0.052500	0.055000	38	5.30
0.055000	0.057500	39	5.35
0.057500		40	5.40

(b) The graduated social cost factor rate shall be determined as follows:

(i)(A) Except as provided in (b)(i)(B)((~~,~~)) and (C)((~~, and (D)~~)) of this subsection, the commissioner shall calculate the flat social cost factor for a rate year by dividing the total social cost by the total taxable payroll. The division shall be carried to the second decimal place with the remaining fraction disregarded unless it amounts to five hundredths or more, in which case the second decimal place shall be rounded to the next higher digit. The flat social cost factor shall be expressed as a percentage.

(B) If, on the cut-off date, the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide more than ten months of unemployment benefits, the commissioner shall calculate the flat social cost factor for the rate year immediately following the cut-off date by reducing the total social cost by the dollar amount that represents the number of months for which the balance in the unemployment compensation fund on the cut-off date will provide benefits above ten months and dividing the result by the total taxable payroll. However, the calculation under this subsection (2)(b)(i)(B) for a rate year may not result in a flat social cost factor that is more than ((~~two-tenths~~)) four-tenths lower than the calculation under (b)(i)(A) of this subsection for that rate year. For the purposes of this subsection, the commissioner shall determine the number of months of unemployment benefits in the unemployment compensation fund using the benefit cost rate for the average of the three highest calendar benefit cost rates in the twenty consecutive

completed calendar years immediately preceding the cut-off date or a period of consecutive calendar years immediately preceding the cut-off date that includes three recessions, if longer.

(C) The minimum flat social cost factor calculated under this subsection (2)(b) shall be six-tenths of one percent, except that if the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide:

(I) At least twelve months but less than fourteen months of unemployment benefits, the minimum shall be five-tenths of one percent; or

(II) At least fourteen months of unemployment benefits, the minimum shall be five-tenths of one percent, except that, for employers in rate class 1, the minimum shall be forty-five hundredths of one percent.

~~(((D) With respect to rate year 2007, the flat social cost factor shall be the lesser of:~~

~~(I) The flat social cost factor determined under (b)(i)(A) through (C) of this subsection; or~~

~~(II) The flat social cost factor that would be determined under (b)(i)(A) through (C) of this subsection if RCW 50.20.120(2)(c)(I) had been in effect during the immediately preceding rate year.~~))

(ii)(A) Except as provided in (b)(ii)(B) of this subsection, the graduated social cost factor rate for each employer in the array is the flat social cost factor multiplied by the percentage specified as follows for the rate class to which the employer has been assigned in (a)(ii) of this subsection, except that the sum of an employer's array calculation factor rate and the graduated social cost factor rate may not exceed six and five-tenths percent or, for employers whose North American industry classification system code is within "111," "112," "1141," "115," "3114," "3117," ((~~or~~)) "42448," or "49312," may not exceed six percent through rate year 2007 and may not exceed five and seven-tenths percent for rate year 2008 and thereafter:

(I) Rate class 1 - 78 percent;
(II) Rate class 2 - 82 percent;
(III) Rate class 3 - 86 percent;
(IV) Rate class 4 - 90 percent;
(V) Rate class 5 - 94 percent;
(VI) Rate class 6 - 98 percent;
(VII) Rate class 7 - 102 percent;
(VIII) Rate class 8 - 106 percent;
(IX) Rate class 9 - 110 percent;
(X) Rate class 10 - 114 percent;
(XI) Rate class 11 - 118 percent; and
(XII) Rate classes 12 through 40 - 120 percent.

(B) For contributions assessed beginning July 1, 2005, through ((~~June 30,~~)) December 31, 2007, for employers whose North American industry classification system code is "111," "112," "1141," "115," "3114," "3117," "42448," or "49312," the graduated social cost factor rate is zero.

(iii) For the purposes of this section:

(A) "Total social cost" means((~~:~~

~~(I) Except as provided in (b)(iii)(A)(II) of this subsection,~~)) the amount calculated by subtracting the array calculation factor contributions paid by all employers with respect to the four consecutive calendar quarters immediately preceding the computation date and paid to the employment security department by the cut-off date from the total unemployment benefits paid to claimants in the same four consecutive calendar quarters. To calculate the flat social cost factor for rate year 2005, the commissioner shall calculate the total social cost using the array calculation factor contributions that would have been required to be paid by all employers in the calculation period if (a) of this subsection had been in effect for the relevant period.

~~(((II) For rate year 2007, the amount calculated under (b)(iii)(A)(I) of this subsection reduced by the amount of benefits charged that exceed the contributions paid in the four consecutive calendar quarters immediately preceding the applicable computation date because, as applicable, specified employers are subject to the social cost contributions under (b)(ii)(B) of this subsection, and/or because the social cost factor contributions are paid under (b)(i)(D)(II) of this subsection.~~))

(B) "Total taxable payroll" means the total amount of wages subject to tax, as determined under RCW 50.24.010, for all employers in the four consecutive calendar quarters immediately preceding the computation date and reported to the employment security department by the cut-off date.

(c) The array calculation factor rate for each employer not qualified to be in the array shall be as follows:

(I) Employers who do not meet the definition of "qualified employer" by reason of failure to pay contributions when due shall be assigned an array calculation factor rate two-tenths higher than that in rate class 40, except employers who have an approved agency-deferred payment contract by September 30th of the previous rate year. If any employer with an approved agency-deferred payment contract fails to make any one of the succeeding deferred payments or fails to submit any succeeding tax report and payment in a timely manner, the employer's tax rate shall immediately revert to an array calculation factor rate two-tenths higher than that in rate class 40; and

(ii) For all other employers not qualified to be in the array, the array calculation factor rate shall be a rate equal to the average industry array calculation factor rate as determined by the commissioner, plus fifteen percent of that amount; however, the rate may not be less than one percent or more than the array calculation factor rate in rate class 40.

(d) The graduated social cost factor rate for each employer not qualified to be in the array shall be as follows:

(I) For employers whose array calculation factor rate is determined under (c)(I) of this subsection, the social cost factor rate shall be the social cost factor rate assigned to rate class 40 under (b)(ii) of this subsection.

(ii) For employers whose array calculation factor rate is determined under (c)(ii) of this subsection, the social cost factor rate shall be a rate equal to the average industry social cost factor rate as determined by the commissioner, plus fifteen percent of that amount, but not more than the social cost factor rate assigned to rate class 40 under (b)(ii) of this subsection.

(3) Assignment of employers by the commissioner to industrial classification, for purposes of this section, shall be in accordance with established classification practices found in the "Standard Industrial Classification Manual" issued by the federal office of management and budget to the third digit provided in the standard industrial classification code, or in the North American industry classification system code.

Sec. 5 RCW 50.29.041 and 2003 2nd sp.s. c 4 s 16 are each amended to read as follows: Beginning with contributions assessed for rate year 2005, the contribution rate of each employer subject to contributions under RCW 50.24.010 shall include a solvency surcharge determined as follows:

(1) This section shall apply to employers' contributions for a rate year immediately following a cut-off date only if, on the cut-off date, the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide fewer than ((~~six~~)) seven months of unemployment benefits.

(2) The solvency surcharge shall be the lowest rate necessary, as determined by the commissioner, but not more than two-tenths of one percent, to provide revenue during the applicable rate year that will fund unemployment benefits for the number of months that is the difference between ((~~eight~~)) nine months and the number of months for which the balance in the unemployment compensation fund on the cut-off date will provide benefits.

(3) The basis for determining the number of months of unemployment benefits shall be the same basis used in RCW 50.29.025(2)(b)(i)(B).

Sec. 6 RCW 50.29.021 and 2005 c 133 s 4 are each amended to read as follows:

(1) This section applies to benefits charged to the experience rating accounts of employers for claims that have an effective date on or after January 4, 2004.

(2)(a) An experience rating account shall be established and maintained for each employer, except employers as described in RCW 50.44.010 and 50.44.030 who have properly elected to make payments in lieu of contributions, taxable local government employers as described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, based on existing records of the employment security department.

(b) Benefits paid to an eligible individual shall be charged to the experience rating accounts of each of such individual's employers during the individual's base year in the same ratio that the wages paid by each employer to the individual during the base year bear to the wages paid by all employers to that individual during that base year, except as otherwise provided in this section.

(c) When the eligible individual's separating employer is a covered contribution paying base year employer, benefits paid to the eligible individual shall be charged to the experience rating account of only the individual's separating employer if the individual qualifies for benefits under:

(I) RCW 50.20.050(2)(b)(I), as applicable, and became unemployed after having worked and earned wages in the bona fide work; or

(ii) RCW 50.20.050(2)(b)(v) through (x).

(3) The legislature finds that certain benefit payments, in whole or in part, should not be charged to the experience rating accounts of employers except those employers described in RCW 50.44.010 and 50.44.030 who have properly elected to make payments in lieu of contributions, taxable local government employers described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, as follows:

(a) Benefits paid to any individual later determined to be ineligible shall not be charged to the experience rating account of any contribution paying employer.

(b) Benefits paid to an individual filing under the provisions of chapter 50.06 RCW shall not be charged to the experience rating account of any contribution paying employer only if:

(I) The individual files under RCW 50.06.020(1) after receiving crime victims' compensation for a disability resulting from a nonwork-related occurrence; or

(ii) The individual files under RCW 50.06.020(2).

(c) Benefits paid which represent the state's share of benefits payable as extended benefits defined under RCW 50.22.010(6) shall not be charged to the experience rating account of any contribution paying employer.

(d) In the case of individuals who requalify for benefits under RCW 50.20.050 or 50.20.060, benefits based on wage credits earned prior to the disqualifying separation shall not be charged to the experience rating account of the contribution paying employer from whom that separation took place.

(e) Individuals who qualify for benefits under RCW 50.20.050(2)(b)(iv), as applicable, shall not have their benefits charged to the experience rating account of any contribution paying employer.

(f) With respect to claims with an effective date on or after the first Sunday following April 22, 2005, ((~~and before July 1, 2007,~~)) benefits paid that exceed the benefits that would have been paid if the weekly benefit amount for the claim had been determined as one percent of the total wages paid in the individual's base year shall not be charged to the experience rating account of any contribution paying employer.

(4)(a) A contribution paying base year employer, not otherwise eligible for relief of charges for benefits under this section, may receive such relief if the benefit charges result from payment to an individual who:

(I) Last left the employ of such employer voluntarily for reasons not attributable to the employer;

(ii) Was discharged for misconduct or gross misconduct connected with his or her work not a result of inability to meet the minimum job requirements;

(iii) Is unemployed as a result of closure or severe curtailment of operation at the employer's plant, building, worksite, or other facility. This closure must be for reasons directly attributable to a catastrophic occurrence such as fire, flood, or other natural disaster; or

(iv) Continues to be employed on a regularly scheduled permanent part-time basis by a base year employer and who at some time during the base year was concurrently employed and subsequently separated from at least one other base year employer. Benefit charge relief ceases when the employment relationship between the employer requesting relief and the claimant is terminated. This subsection does not apply to shared work employers under chapter 50.60 RCW.

(b) The employer requesting relief of charges under this subsection must request relief in writing within thirty days following mailing to the last known address of the notification of the valid initial determination of such claim, stating the date and reason for the separation or the circumstances of continued employment. The commissioner, upon investigation of the request, shall determine whether relief should be granted.

Sec. 7 RCW 50.16.030 and 2005 c 133 s 6 are each amended to read as follows:

(1)(a) Except as provided in (b) ((~~and (c)~~)) of this subsection, moneys shall be requisitioned from this state's account in the unemployment trust fund solely for the payment of benefits and repayment of loans from the federal government to guarantee solvency of the unemployment compensation fund in accordance with regulations prescribed by the commissioner, except that money credited to this state's account pursuant to section 903 of the social security act, as amended, shall be used exclusively as provided in RCW 50.16.030(5). The commissioner shall from time to time requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to its account therein, as he or she deems necessary for the payment of benefits for a reasonable future period. Upon receipt thereof the treasurer shall deposit such moneys in the benefit account and shall issue his or her warrants for the payment of benefits solely from such benefits account.

(b) Moneys for the payment of regular benefits as defined in RCW 50.22.010 shall be requisitioned during fiscal year((~~s~~)) 2006 ((~~and 2007~~)) in the following order:

(I) First, from the moneys credited to this state's account in the unemployment trust fund pursuant to section 903 of the social security act, as amended in section 209 of the temporary extended unemployment compensation act of 2002 (42 U.S.C. Sec. 1103(d)), the amount equal to the amount of benefits charged that exceed the contributions paid in the four consecutive calendar quarters ending on June 30, 2006, ((~~for the fiscal year 2006 calculation, and ending on June 30, 2007, for the fiscal year 2007 calculation,~~)) because the social cost factor contributions that employers are subject to under RCW 50.29.025(2)(b)(ii)(B) are less than the social cost factor contributions that these employers would have been subject to if RCW 50.29.025(2)(b)(ii)(A) had applied to these employers; and

(ii) Second, after the requisitioning required under (b)(I) of this subsection ((~~in the respective fiscal year~~)), from all other moneys credited to this state's account in the unemployment trust fund.

(((~~(c) After the requisitioning required under (b) of this subsection, if applicable, moneys for the payment of regular benefits as defined in RCW 50.22.010 shall be requisitioned during calendar year 2007 in the following order:~~

~~(I) First, from the moneys credited to this state's account in the unemployment trust fund pursuant to section 903 of the social security act, as amended in section 209 of the temporary extended unemployment compensation act of 2002 (42 U.S.C. Sec. 1103(d)), the amount equal to the amount of benefits paid~~

~~under RCW 50.20.120(2)(c)(ii) beginning on the first Sunday following April 22, 2005, and ending on June 30, 2007, that exceed the amount of benefits that would have been paid if the weekly benefit amount had been determined as one percent of the total wages paid in the individual's base year; and~~

~~(ii) Second, after the requisitioning required under (c)(I) of this subsection in the respective calendar year, from all other moneys credited to this state's account in the unemployment trust fund.~~))

(2) Expenditures of such moneys in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody, and RCW 43.01.050, as amended, shall not apply. All warrants issued by the treasurer for the payment of benefits and refunds shall bear the signature of the treasurer and the countersignature of the commissioner, or his or her duly authorized agent for that purpose.

(3) Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or in the discretion of the commissioner, shall be redeposited with the secretary of the treasury of the United States of America to the credit of this state's account in the unemployment trust fund.

(4) Money credited to the account of this state in the unemployment trust fund by the secretary of the treasury of the United States of America pursuant to section 903 of the social security act, as amended, may be requisitioned and used for the payment of expenses incurred for the administration of this title pursuant to a specific appropriation by the legislature, provided that the expenses are incurred and the money is requisitioned after the enactment of an appropriation law which:

(a) Specifies the purposes for which such money is appropriated and the amounts appropriated therefor;

(b) Limits the period within which such money may be obligated to a period ending not more than two years after the date of the enactment of the appropriation law; and

(c) Limits the amount which may be obligated during a twelve-month period beginning on July 1st and ending on the next June 30th to an amount which does not exceed the amount by which (I) the aggregate of the amounts credited to the account of this state pursuant to section 903 of the social security act, as amended, during the same twelve-month period and the thirty-four preceding twelve-month periods, exceeds (ii) the aggregate of the amounts obligated pursuant to RCW 50.16.030 (4), (5) and (6) and charged against the amounts credited to the account of this state during any of such thirty-five twelve-month periods. For the purposes of RCW 50.16.030 (4), (5) and (6), amounts obligated during any such twelve-month period shall be charged against equivalent amounts which were first credited and which are not already so charged; except that no amount obligated for administration during any such twelve-month period may be charged against any amount credited during such a twelve-month period earlier than the thirty-fourth twelve-month period preceding such period: PROVIDED, That any amount credited to this state's account under section 903 of the social security act, as amended, which has been appropriated for expenses of administration, whether or not withdrawn from the trust fund shall be excluded from the unemployment compensation fund balance for the purpose of experience rating credit determination.

(5) Money credited to the account of this state pursuant to section 903 of the social security act, as amended, may not be withdrawn or used except for the payment of benefits and for the payment of expenses of administration and of public employment offices pursuant to RCW 50.16.030 (4), (5) and (6). However, moneys credited because of excess amounts in federal accounts in federal fiscal years 1999, 2000, and 2001 shall be used solely for the administration of the unemployment compensation program and are not subject to appropriation by the legislature for any other purpose.

(6) Money requisitioned as provided in RCW 50.16.030 (4), (5) and (6) for the payment of expenses of administration shall be deposited in the unemployment compensation fund, but until expended, shall remain a part of the unemployment compensation fund. The commissioner shall maintain a separate record of the deposit, obligation, expenditure and return of funds so deposited. Any money so deposited which either will not be obligated within the period specified by the appropriation law or remains unobligated at the end of the period, and any money which has been obligated within the period but will not be expended, shall be returned promptly to the account of this state in the unemployment trust fund.

PART III - REENACTED PROVISIONS

Sec. 8 RCW 50.04.293 and 2003 2nd sp.s. c 4 s 5 are each reenacted to read as follows: With respect to claims that have an effective date before January 4, 2004, "misconduct" means an employee's act or failure to act in willful disregard of his or her employer's interest where the effect of the employee's act or failure to act is to harm the employer's business.

Sec. 9 RCW 50.04.294 and 2003 2nd sp.s. c 4 s 6 are each reenacted to read as follows: With respect to claims that have an effective date on or after January 4, 2004:

(1) "Misconduct" includes, but is not limited to, the following conduct by a claimant:

(a) Willful or wanton disregard of the rights, title, and interests of the employer or a fellow employee;

(b) Deliberate violations or disregard of standards of behavior which the employer has the right to expect of an employee;

(c) Carelessness or negligence that causes or would likely cause serious bodily harm to the employer or a fellow employee; or

(d) Carelessness or negligence of such degree or recurrence to show an intentional or substantial disregard of the employer's interest.

(2) The following acts are considered misconduct because the acts signify a willful or wanton disregard of the rights, title, and interests of the employer or a fellow employee. These acts include, but are not limited to:

(a) Insubordination showing a deliberate, willful, or purposeful refusal to follow the reasonable directions or instructions of the employer;

(b) Repeated inexcusable tardiness following warnings by the employer;

(c) Dishonesty related to employment, including but not limited to deliberate falsification of company records, theft, deliberate deception, or lying;

(d) Repeated and inexcusable absences, including absences for which the employee was able to give advance notice and failed to do so;

(e) Deliberate acts that are illegal, provoke violence or violation of laws, or violate the collective bargaining agreement. However, an employee who engages in lawful union activity may not be disqualified due to misconduct;

(f) Violation of a company rule if the rule is reasonable and if the claimant knew or should have known of the existence of the rule; or

(g) Violations of law by the claimant while acting within the scope of employment that substantially affect the claimant's job performance or that substantially harm the employer's ability to do business.

(3) "Misconduct" does not include:

(a) Inefficiency, unsatisfactory conduct, or failure to perform well as the result of inability or incapacity;

(b) Inadvertence or ordinary negligence in isolated instances; or

(c) Good faith errors in judgment or discretion.

(4) "Gross misconduct" means a criminal act in connection with an individual's work for which the individual has been convicted in a criminal court, or has admitted committing, or conduct connected with the individual's work that demonstrates a flagrant and wanton disregard of and for the rights, title, or interest of the employer or a fellow employee.

Sec. 10 RCW 50.20.010 and 2003 2nd sp.s. c 4 s 3 are each reenacted to read as follows: (1) An unemployed individual shall be eligible to receive waiting period credits or benefits with respect to any week in his or her eligibility period only if the commissioner finds that:

(a) He or she has registered for work at, and thereafter has continued to report at, an employment office in accordance with such regulation as the commissioner may prescribe, except that the commissioner may by regulation waive or alter either or both of the requirements of this subdivision as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which the commissioner finds that the compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this title;

(b) He or she has filed an application for an initial determination and made a claim for waiting period credit or for benefits in accordance with the provisions of this title;

(c) He or she is able to work, and is available for work in any trade, occupation, profession, or business for which he or she is reasonably fitted.

(I) With respect to claims that have an effective date before January 4, 2004, to be available for work an individual must be ready, able, and willing, immediately to accept any suitable work which may be offered to him or her and must be actively seeking work pursuant to customary trade practices and through other methods when so directed by the commissioner or the commissioner's agents.

(ii) With respect to claims that have an effective date on or after January 4, 2004, to be available for work an individual must be ready, able, and willing, immediately to accept any suitable work which may be offered to him or her and must be actively seeking work pursuant to customary trade practices and through other methods when so directed by the commissioner or the commissioner's agents. If a labor agreement or dispatch rules apply, customary trade practices must be in accordance with the applicable agreement or rules;

(d) He or she has been unemployed for a waiting period of one week;

(e) He or she participates in reemployment services if the individual has been referred to reemployment services pursuant to the profiling system established by the commissioner under RCW 50.20.011, unless the commissioner determines that:

(I) The individual has completed such services; or

(ii) There is justifiable cause for the claimant's failure to participate in such services; and (f) As to weeks beginning after March 31, 1981, which fall within an extended benefit period as defined in RCW 50.22.010, the individual meets the terms and conditions of RCW 50.22.020 with respect to benefits claimed in excess of twenty-six times the individual's weekly benefit amount.

(2) An individual's eligibility period for regular benefits shall be coincident to his or her established benefit year. An individual's eligibility period for additional or extended benefits shall be the periods prescribed elsewhere in this title for such benefits.

Sec. 11 RCW 50.20.060 and 2003 2nd sp.s. c 4 s 7 are each reenacted to read as follows: With respect to claims that have an effective date before January 4, 2004, an individual shall be disqualified from benefits beginning with the first day of the calendar week in which he or she has been discharged or suspended for misconduct connected with his or her work and thereafter for seven calendar weeks and until he or she has obtained bona fide work in employment covered by this title and earned wages in that employment equal to seven times his or her weekly benefit amount. Alcoholism shall not constitute a defense to disqualification from benefits due to misconduct.

Sec. 12 RCW 50.20.065 and 2003 2nd sp.s. c 4 s 8 are each reenacted to read as follows: With respect to claims that have an effective date before January 4, 2004:

(1) An individual who has been discharged from his or her work because of a felony or gross misdemeanor of which he or she has been convicted, or has admitted committing to a competent authority, and that is connected with his or her work shall have all hourly wage credits based on that employment canceled.

(2) The employer shall notify the department of such an admission or conviction, not later than six months following the admission or conviction.

(3) The claimant shall disclose any conviction of the claimant of a work-connected felony or gross misdemeanor occurring in the previous two years to the department at the time of application for benefits.

(4) All benefits that are paid in error based on wage/ hour credits that should have been removed from the claimant's base year are recoverable, notwithstanding RCW 50.20.190 or 50.24.020 or any other provisions of this title.

Sec. 13 RCW 50.20.066 and 2003 2nd sp.s. c 4 s 9 are each reenacted to read as follows: With respect to claims that have an effective date on or after January 4, 2004:

(1) An individual shall be disqualified from benefits beginning with the first day of the calendar week in which he or she has been discharged or suspended for misconduct connected with his or her work and thereafter for ten calendar weeks and until he or she has obtained bona fide work in employment covered by this title and earned wages in that employment equal to ten times his or her weekly benefit amount. Alcoholism shall not constitute a defense to disqualification from benefits due to misconduct.

(2) An individual who has been discharged from his or her work because of gross misconduct shall have all hourly wage credits based on that employment or six hundred eighty hours of wage credits, whichever is greater, canceled.

(3) The employer shall notify the department of a felony or gross misdemeanor of which an individual has been convicted, or has admitted committing to a competent authority, not later than six months following the admission or conviction.

(4) The claimant shall disclose any conviction of the claimant of a work-connected felony or gross misdemeanor occurring in the previous two years to the department at the time of application for benefits.

(5) All benefits that are paid in error based on this section are recoverable, notwithstanding RCW 50.20.190 or 50.24.020 or any other provisions of this title.

Sec. 14 RCW 50.20.100 and 2004 c 110 s 2 are each reenacted to read as follows:

(1) Suitable work for an individual is employment in an occupation in keeping with the individual's prior work experience, education, or training and if the individual has no prior work experience, special education, or training for employment available in the general area, then employment which the individual would have the physical and mental ability to perform. In determining whether work is suitable for an individual, the commissioner shall also consider the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness, the individual's length of unemployment and prospects for securing local work in the individual's customary occupation, the distance of the available work from the individual's residence, and such other factors as the commissioner may deem pertinent, including state and national emergencies.

(2) For individuals with base year work experience in agricultural labor, any agricultural labor available from any employer shall be deemed suitable unless it meets conditions in RCW 50.20.110 or the commissioner finds elements of specific work opportunity unsuitable for a particular individual.

(3) For part-time workers as defined in RCW 50.20.119, suitable work includes suitable work under subsection (1) of this section that is for seventeen or fewer hours per week.

(4) For individuals who have qualified for unemployment compensation benefits under RCW 50.20.050 (1)(b)(iv) or (2)(b)(iv), as applicable, an evaluation of the suitability of the work must consider the individual's need to address the physical, psychological, legal, and other effects of domestic violence or stalking.

Sec. 15 RCW 50.20.119 and 2003 2nd sp.s. c 4 s 12 are each reenacted to read as follows:

(1) With respect to claims that have an effective date on or after January 2, 2005, an otherwise eligible individual may not be denied benefits for any week because the individual is a part-time worker and is available for, seeks, applies for, or accepts only work of seventeen or fewer hours per week by reason of the application of RCW 50.20.010(1)(c), 50.20.080, or 50.22.020(1) relating to availability for work and active search for work, or failure to apply for or refusal to accept suitable work

(2) For purposes of this section, "part-time worker" means an individual who: (a) Earned wages in "employment" in at least forty weeks in the individual's base year; and (b) did not earn wages in "employment" in more than seventeen hours per week in any weeks in the individual's base year.

Sec. 16 RCW 50.20.240 and 2004 c 110 s 1 are each reenacted to read as follows:

(1)(a) To ensure that following the initial application for benefits, an individual is actively engaged in searching for work, the employment security department shall implement a job search monitoring program. Effective January 4, 2004, the department shall contract with employment security agencies in other states to ensure that individuals residing in those states and receiving benefits under this title are actively engaged in searching for work in accordance with the requirements of this section. The department may use interactive voice technology and other electronic means to ensure that individuals are subject to comparable job search monitoring, regardless of whether they reside in Washington or elsewhere.

(b) Except for those individuals with employer attachment or union referral, individuals who qualify for unemployment compensation under RCW 50.20.050 (1)(b)(iv) or (2)(b)(iv), as applicable, and individuals in commissioner-approved training, an individual who has received five or more weeks of benefits under this title, regardless of whether the individual resides in Washington or elsewhere, must provide evidence of seeking work, as directed by the commissioner or the commissioner's agents, for each week beyond five in which a claim is filed. With regard to claims with an effective date before January 4, 2004, the evidence must demonstrate contacts with at least three employers per week or documented in-person job search activity at the local reemployment center. With regard to claims with an effective date on or after January 4, 2004, the evidence must demonstrate contacts with at least three employers per week or documented in-person job search activities at the local reemployment center at least three times per week

(c) In developing the requirements for the job search monitoring program, the commissioner or the commissioner's agents shall utilize an existing advisory committee having equal representation of employers and workers.

(2) Effective January 4, 2004, an individual who fails to comply fully with the requirements for actively seeking work under RCW 50.20.010 shall lose all benefits for all weeks during which the individual was not in compliance, and the individual shall be liable for repayment of all such benefits under RCW 50.20.190.

Sec. 17 RCW 50.04.335 and 2003 2nd sp.s. c 4 s 2 are each reenacted to read as follows:

After December 31, 2003, for the purpose of the payment of contributions, the term "wages" does not include an employee's income attributable to the transfer of shares of stock to the employee pursuant to his or her exercise of a stock option granted for any reason connected with his or her employment.

Sec. 18 RCW 50.16.010 and 2005 c 518 s 933 are each reenacted to read as follows:

(1) There shall be maintained as special funds, separate and apart from all public moneys or funds of this state an unemployment compensation fund, an administrative contingency fund, and a federal interest payment fund, which shall be administered by the commissioner exclusively for the purposes of this title, and to which RCW 43.01.050 shall not be applicable. (2)(a) The unemployment compensation fund shall consist of:

(I) All contributions collected under RCW 50.24.010 and payments in lieu of contributions collected pursuant to the provisions of this title;

(ii) Any property or securities acquired through the use of moneys belonging to the fund; (iii) All earnings of such property or securities;

(iv) Any moneys received from the federal unemployment account in the unemployment trust fund in accordance with Title XII of the social security act, as amended;

(v) All money recovered on official bonds for losses sustained by the fund;

(vi) All money credited to this state's account in the unemployment trust fund pursuant to section 903 of the social security act, as amended;

(vii) All money received from the federal government as reimbursement pursuant to section 204 of the federal-state extended compensation act of 1970 (84 Stat. 708-712; 26 U.S.C. Sec. 3304); and

(viii) All moneys received for the fund from any other source.

(b) All moneys in the unemployment compensation fund shall be commingled and undivided.

(3)(a) Except as provided in (b) of this subsection, the administrative contingency fund shall consist of:

(I) All interest on delinquent contributions collected pursuant to this title;

(ii) All fines and penalties collected pursuant to the provisions of this title;

(iii) All sums recovered on official bonds for losses sustained by the fund; and

(iv) Revenue received under RCW 50.24.014.

(b) All fees, fines, forfeitures, and penalties collected or assessed by a district court because of the violation of this title or rules adopted under this title shall be remitted as provided in chapter 3.62 RCW.

(c) Moneys available in the administrative contingency fund, other than money in the special account created under RCW 50.24.014(1)(a), shall be expended upon the direction of the commissioner, with the approval of the governor, whenever it appears to him or her that such expenditure is necessary solely for:

(I) The proper administration of this title and no federal funds are available for the specific purpose to which such expenditure is to be made, provided, the moneys are not substituted for appropriations from federal funds which, in the absence of such moneys, would be made available.

(ii) The proper administration of this title for which purpose appropriations from federal funds have been requested but not yet received, provided, the administrative contingency fund will be reimbursed upon receipt of the requested federal appropriation.

(iii) The proper administration of this title for which compliance and audit issues have been identified that establish federal claims requiring the expenditure of state resources in resolution. Claims must be resolved in the following priority: First priority is to provide services to eligible participants within the state; second priority is to provide substitute services or program support; and last priority is the direct payment of funds to the federal government.

(d) During the 2005-2007 fiscal biennium, the cost of the job skills program at community and technical colleges as appropriated by the legislature. Money in the special account created under RCW 50.24.014(1)(a) may only be expended, after appropriation, for the purposes specified in this section and RCW 50.62.010, 50.62.020, 50.62.030, 50.24.014, 50.44.053, and 50.22.010.

Sec. 19 RCW 50.16.015 and 2003 2nd sp.s. c 4 s 24 are each reenacted to read as follows:

A separate and identifiable fund to provide for the payment of interest on advances received from this state's account in the federal unemployment trust fund shall be established and administered under the direction of the commissioner. This fund shall be known as the federal interest payment fund and shall consist of contributions paid under RCW 50.16.070. All money in this fund shall be expended solely for the payment of interest on advances received from this state's account in the federal unemployment trust fund and for no other purposes whatsoever.

Sec. 20 RCW 50.24.014 and 2003 2nd sp.s. c 4 s 25 are each reenacted to read as follows:

(1)(a) A separate and identifiable account to provide for the financing of special programs to assist the unemployed is established in the administrative contingency fund. All money in this account shall be expended solely for the purposes of this title and for no other purposes whatsoever. Contributions to this account shall accrue and become payable by each employer, except employers as described in RCW 50.44.010 and 50.44.030 who have properly elected to make payments in lieu of contributions, taxable local government employers as described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, at a basic rate of two one-hundredths of one percent. The amount of wages subject to tax shall be determined under RCW 50.24.010.

(b) A separate and identifiable account is established in the administrative contingency fund for financing the employment security department's administrative cost under RCW 50.22.150 and the costs under RCW 50.22.150(9). All money in this account shall be expended solely for the purposes of this title and for no other purposes whatsoever. Contributions to this account shall accrue and become payable by each employer, except employers as described in RCW 50.44.010 and 50.44.030 who have properly elected to make payments in lieu of contributions, taxable local government employers as described in RCW 50.44.035, those employers who are required to make payments in lieu of contributions, those employers described under RCW 50.29.025(1)(f)(ii), and those qualified employers assigned rate class 20 or rate class 40, as applicable, under RCW 50.29.025, at a basic rate of one one-hundredth of one percent. The amount of wages subject to tax shall be determined under RCW 50.24.010. Any amount of contributions payable under this subsection (1)(b) that exceeds the amount that would have been collected at a rate of four one-thousandths of one percent must be deposited in the unemployment compensation trust fund.

(c) For the first calendar quarter of 1994 only, the basic two one-hundredths of one percent contribution payable under (a) of this subsection shall be increased by one-hundredth of one percent to a total rate of three one-hundredths of one percent. The proceeds of this incremental one-hundredth of one percent shall be used solely for the purposes described in section 22, chapter 483, Laws of 1993, and for the purposes of conducting an evaluation of the call center approach to unemployment insurance under section 5, chapter 161, Laws of 1998. During the 1997-1999 fiscal biennium, any surplus from contributions payable under this subsection (c) may be deposited in the unemployment compensation trust fund, used to support tax and wage automated systems projects that simplify and streamline employer reporting, or both.

(2)(a) Contributions under this section shall become due and be paid by each employer under rules as the commissioner may prescribe, and shall not be deducted, in whole or in part, from the remuneration of individuals in the employ of the employer. Any deduction in violation of this section is unlawful.

(b) In the payment of any contributions under this section, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(3) If the commissioner determines that federal funding has been increased to provide financing for the services specified in chapter 50.62 RCW, the commissioner shall direct that collection of contributions under this section be terminated on the following January 1st.

Sec. 21 RCW 50.20.190 and 2005 c 518 s 934 are each reenacted to read as follows:

(1) An individual who is paid any amount as benefits under this title to which he or she is not entitled shall, unless otherwise relieved pursuant to this section, be liable for repayment of the amount overpaid. The department shall issue an overpayment assessment setting forth the reasons for and the amount of the overpayment. The amount assessed, to the extent not collected, may be deducted from any future benefits payable to the individual: PROVIDED, That in the absence of a back pay award, a settlement affecting the allowance of benefits, fraud, misrepresentation, or willful nondisclosure, every determination of liability shall be mailed or personally served not later than two years after the close of or final payment made on the individual's applicable benefit year for which the purported overpayment was made, whichever is later, unless the merits of the claim are subjected to administrative or judicial review in which event the period for serving the determination of liability shall be extended to allow service of the determination of liability during the six-month period following the final decision affecting the claim.

(2) The commissioner may waive an overpayment if the commissioner finds that the overpayment was not the result of fraud, misrepresentation, willful nondisclosure, or fault attributable to the individual and that the recovery thereof would be against equity and good conscience: PROVIDED, HOWEVER, That the overpayment so waived shall be charged against the individual's applicable entitlement for the eligibility period containing the weeks to which the overpayment was attributed as though such benefits had been properly paid.

(3) Any assessment herein provided shall constitute a determination of liability from which an appeal may be had in the same manner and to the same extent as provided for appeals relating to determinations in respect to claims for benefits: PROVIDED, That an appeal from any determination covering overpayment only shall be deemed to be an appeal from the determination which was the basis for establishing the overpayment unless the merits involved in the issue set forth in such determination have already been heard and passed upon by the appeal tribunal. If no such appeal is taken to the appeal tribunal by the individual within thirty days of the delivery of the notice of determination of liability, or within thirty days of the mailing of the notice of determination, whichever is the earlier, the determination of liability shall be deemed conclusive and final. Whenever any such notice of determination of liability becomes conclusive and final, the commissioner, upon giving at least twenty days notice by certified mail return receipt requested to the individual's last known address of the intended action, may file with the superior court clerk of any county within the state a warrant in the amount of the notice of determination of liability plus a filing fee under RCW 36.18.012(10). The clerk of the county where the warrant is filed shall immediately designate a superior court cause number for the warrant, and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of the person(s) mentioned in the warrant, the amount of the notice of determination of liability, and the date when the warrant was filed. The amount of the warrant as docketed shall become a lien upon the title to, and any interest in, all real and personal property of the person(s)

against whom the warrant is issued, the same as a judgment in a civil case duly docketed in the office of such clerk. A warrant so docketed shall be sufficient to support the issuance of writs of execution and writs of garnishment in favor of the state in the manner provided by law for a civil judgment. A copy of the warrant shall be mailed to the person(s) mentioned in the warrant by certified mail to the person's last known address within five days of its filing with the clerk.

(4) On request of any agency which administers an employment security law of another state, the United States, or a foreign government and which has found in accordance with the provisions of such law that a claimant is liable to repay benefits received under such law, the commissioner may collect the amount of such benefits from the claimant to be refunded to the agency. In any case in which under this section a claimant is liable to repay any amount to the agency of another state, the United States, or a foreign government, such amounts may be collected without interest by civil action in the name of the commissioner acting as agent for such agency if the other state, the United States, or the foreign government extends such collection rights to the employment security department of the state of Washington, and provided that the court costs be paid by the governmental agency benefiting from such collection.

(5) Any employer who is a party to a back pay award or settlement due to loss of wages shall, within thirty days of the award or settlement, report to the department the amount of the award or settlement, the name and social security number of the recipient of the award or settlement, and the period for which it is awarded. When an individual has been awarded or receives back pay, for benefit purposes the amount of the back pay shall constitute wages paid in the period for which it was awarded. For contribution purposes, the back pay award or settlement shall constitute wages paid in the period in which it was actually paid. The following requirements shall also apply:

(a) The employer shall reduce the amount of the back pay award or settlement by an amount determined by the department based upon the amount of unemployment benefits received by the recipient of the award or settlement during the period for which the back pay award or settlement was awarded;

(b) The employer shall pay to the unemployment compensation fund, in a manner specified by the commissioner, an amount equal to the amount of such reduction;

(c) The employer shall also pay to the department any taxes due for unemployment insurance purposes on the entire amount of the back pay award or settlement notwithstanding any reduction made pursuant to (a) of this subsection;

(d) If the employer fails to reduce the amount of the back pay award or settlement as required in (a) of this subsection, the department shall issue an overpayment assessment against the recipient of the award or settlement in the amount that the back pay award or settlement should have been reduced; and

(e) If the employer fails to pay to the department an amount equal to the reduction as required in (b) of this subsection, the department shall issue an assessment of liability against the employer which shall be collected pursuant to the procedures for collection of assessments provided herein and in RCW 50.24.110.

(6) When an individual fails to repay an overpayment assessment that is due and fails to arrange for satisfactory repayment terms, the commissioner shall impose an interest penalty of one percent per month of the outstanding balance. Interest shall accrue immediately on overpayments assessed pursuant to RCW 50.20.070 and shall be imposed when the assessment becomes final. For any other overpayment, interest shall accrue when the individual has missed two or more of the individual's monthly payments either partially or in full. The interest penalty shall be used, first, to fully fund either social security number cross-match audits or other more effective activities that ensure that individuals are entitled to all amounts of benefits that they are paid, second, to fund other detection and recovery of overpayment and collection activities, and third, during the 2005-07 fiscal biennium, the cost of the job skills program at community and technical colleges as appropriated by the legislature.

Sec. 22 RCW 50.04.206 and 2003 2nd sp.s. c 4 s 27 are each reenacted to read as follows: The term "employment" shall not include service that is performed by a nonresident alien for the period he or she is temporarily present in the United States as a nonimmigrant under subparagraph (F), (H)(ii), (H)(iii), or (J) of section 101(a)(15) of the federal immigration and naturalization act, as amended, and that is performed to carry out the purpose specified in the applicable subparagraph of the federal immigration and naturalization act.

NEW SECTION. **Sec. 23** (1) Sections 8 through 13 and 16 of this act apply retroactively to claims that have an effective date on or after January 4, 2004.

(2) Sections 14 and 15 of this act apply retroactively to claims that have an effective date on or after January 2, 2005. (3) Sections 17 through 22 of this act apply retroactively to June 20, 2003.

PART IV - MISCELLANEOUS

NEW SECTION. **Sec. 24** The employment security department shall study the following and report its findings and recommendations, if any, to the unemployment insurance advisory committee and to the house of representatives commerce and labor committee and the senate labor, commerce, research, and development committee, or their successor committees, by December 1, 2006:

(1) Employment patterns involving repeat episodes of unemployment to achieve improved employer retention rates, improved claimant placement rates, and increased employment opportunities;

(2) Employers in rate class 40, including types of industries, sizes of employers, contributions paid, and benefit charges attributable to such employers;

(3) Reasons for the unusually high rate of employer turnover among Washington employers, which leads to a high volume of charges against inactive accounts and increases socialized costs; and

(4) Fraud prevention methods such as corporate officer eligibility for unemployment insurance, and personal liability of corporate officers for failure to accurately report employee information or pay taxes owed.

NEW SECTION. **Sec. 25** Part headings used in this act are not any part of the law.

NEW SECTION. **Sec. 26** Sections 4 and 5 of this act apply to rate years beginning on or after January 1, 2007.

NEW SECTION. **Sec. 27** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 28** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6885.

Senators Kohl-Welles and Parlette spoke in favor of passage of the motion.

Senator Honeyford spoke against the motion.

MOTION

On motion of Senator Regala, Senator Rockefeller was excused.

MOTION

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6885.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6885 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6885, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6885, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 2; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Jacobsen, Johnson, Kastama, Keiser, Kohl-Welles, McAuliffe, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 44

Voting nay: Senators Honeyford and Morton - 2

Excused: Senators Benson, Kline and McCaslin - 3

ENGROSSED SUBSTITUTE SENATE BILL NO. 6885, 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 Kohl-Welles: "Thank you Mr. President. I'm sorry, I thought I was going to speak on the bill that we just passed on final passage. Maybe I was a little slow on the draw to start speaking but I cannot let this moment go by without thanking all of the people that worked so hard. This bill's passage is very, very sweet and I'm sure that just everybody in this body can not remember a time when it felt sweet to vote on an unemployment insurance bill. In 2003, a lot of people were very upset. The labor community was very upset. Last year with the passage of 2255, a lot of people here were very upset. A lot of people in the business community were very upset but this year just about every single person here feels very good about passage of this bill. I look forward to having many, many years when we do not go through the gut-wrenching, sleep-deprived, nerve-racking, fingernail chewing, hand-wringing time of what are we going to do about yet another unemployment insurance bill and I have to give credit to our staff here in the Senate and in the other body, also to the Governor's office, the Employment Security Department, to the ranking member of the committee, to the chairs ranking member in the other body. All the members of the joint task force and unemployment insurance reform. This has been a monumental effort. The pendulum swung one way in 2003, it swung another way last year and this year it's really in the center and it's a sweet passage of this bill and I look forward to the Governor signing it into law. Thank you Mr. President."

PERSONAL PRIVILEGE

Senator Parlette: "Thank you Mr. President. I also would like to speak to this bill after the fact. All the thank you's the good Senator from the thirty-sixth district had made and I would like to echo those. The goal of this bill, of course, is to find a balance in the system of unemployment. I would like to thank the unemployment insurance task force members, for business folks, for labor folks and for legislators and really there's ownership by many, many people in this piece of legislation that goes back even to previous years, not just this year, but other years. In the end, what we had to do the team work from the leaders from both chambers made this work. We came together to make the final decisions and put them on paper. That's not an easy thing to do but that's the job that we're here to do so I would say thank you for trusting us to do the best job we could and I thank you for your support for this legislation and thank you for everybody's work."

REMARKS BY THE PRESIDENT

President Owen: "We are going to get into Concurrences. Maybe the President should remind members, basically after you have a voice vote to adopt the other house's amendments then we usually go immediately to a vote. If you would like me to change that practice, I will be happy to do that. I'm at your service."

MOTION

At 5:51 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 6:09 p.m. by President Owen.

MOTION

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

MESSAGE FROM THE HOUSE

March 2, 2006

MR. PRESIDENT:
The House concurred in Senate amendment{s} to the following bills and passed the bills as amended by the Senate:
HOUSE BILL NO. 2424,
ENGROSSED HOUSE BILL NO. 3278,
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

March 2, 2006

MR. PRESIDENT:
The Speaker has signed:
HOUSE BILL NO. 2424,
ENGROSSED HOUSE BILL NO. 3278,
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:
HOUSE BILL NO. 2424,
ENGROSSED HOUSE BILL NO. 3278,

MOTION

At 6:10 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Saturday, March 18, 2006.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate