

NINETY-FOURTH DAY

MORNING SESSION

Senate Chamber, Olympia, Wednesday, April 11, 2007

The Senate was called to order at 9:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Prentice, Rasmussen and Tom.

The Sergeant at Arms Color Guard consisting of Pages Joseph Woods and Monica Freshly, presented the Colors. Pastor Sandra Kreis of St. Christopher's Community 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 sixth order of business.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Rockefeller moved that Gubernatorial Appointment No. 9224, Val Ogden, as a Chair of the Interagency Committee for Outdoor Recreation, be confirmed.

Senator Rockefeller spoke in favor of the motion.

MOTION

On motion of Senator Brandland, Senator Benton was excused.

APPOINTMENT OF VAL OGDEN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9224, Val Ogden as Chair of the Interagency Committee for Outdoor Recreation.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9224, Val Ogden as Chair of the Committee for Outdoor Recreation and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 3; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 46

Absent: Senators Prentice, Rasmussen and Tom - 3

Gubernatorial Appointment No. 9224, Val Ogden, having received the constitutional majority was declared confirmed as Chair of the Interagency Committee for Outdoor Recreation.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Rockefeller moved that Gubernatorial Appointment No. 9225, Jeff Parsons, as a member of the Interagency Committee for Outdoor Recreation, be confirmed.

Senator Rockefeller spoke in favor of the motion.

MOTION

On motion of Senator Regala, Senators Prentice and Rasmussen were excused.

APPOINTMENT OF JEFF PARSONS

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9225, Jeff Parsons as a member of the Interagency Committee for Outdoor Recreation.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9225, Jeff Parsons as a member of the Interagency Committee for Outdoor Recreation and the appointment was confirmed by the following vote: Yeas, 42; Nays, 2; Absent, 3; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Regala, Roach, Rockefeller, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 42

Voting nay: Senators Honeyford and Schoesler - 2

Absent: Senators Brown, McCaslin and Pridemore - 3

Excused: Senators Prentice and Rasmussen - 2

Gubernatorial Appointment No. 9225, Jeff Parsons, having received the constitutional majority was declared confirmed as a member of the Interagency Committee for Outdoor Recreation.

SECOND READING

HOUSE BILL NO. 1073, by Representatives Schual-Berke, O'Brien, Anderson, Hudgins, Appleton, Green, Rodne, Ormsby, Cody, Dickerson, Morrell, Kenney and Pearson

Concerning limited emergency worker volunteer immunity.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 38.52.010 and 2002 c 341 s 2 are each amended to read as follows:

As used in this chapter:

(1) "Emergency management" or "comprehensive emergency management" means the preparation for and the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to mitigate, prepare for, respond to, and recover from emergencies and disasters, and to aid victims suffering from injury or damage, resulting from disasters caused by all hazards, whether natural, technological, or human caused, and to provide support for search and rescue operations for persons and property in distress. However, "emergency management" or "comprehensive emergency management" does not mean preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack.

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(2) "Local organization for emergency services or management" means an organization created in accordance with the provisions of this chapter by state or local authority to perform local emergency management functions.

(3) "Political subdivision" means any county, city or town.

(4) "Emergency worker" means any person (~~(, including but not limited to an architect registered under chapter 18.08 RCW or a professional engineer registered under chapter 18.43 RCW,)~~) who is registered with a local emergency management organization or the department and holds an identification card issued by the local emergency management director or the department for the purpose of engaging in authorized emergency management activities or is an employee of the state of Washington or any political subdivision thereof who is called upon to perform emergency management activities.

(5) "Injury" as used in this chapter shall mean and include accidental injuries and/or occupational diseases arising out of emergency management activities.

(6)(a) "Emergency or disaster" as used in all sections of this chapter except RCW 38.52.430 shall mean an event or set of circumstances which: (i) Demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences, or (ii) reaches such a dimension or degree of destructiveness as to warrant the governor declaring a state of emergency pursuant to RCW 43.06.010.

(b) "Emergency" as used in RCW 38.52.430 means an incident that requires a normal police, coroner, fire, rescue, emergency medical services, or utility response as a result of a violation of one of the statutes enumerated in RCW 38.52.430.

(7) "Search and rescue" means the acts of searching for, rescuing, or recovering by means of ground, marine, or air activity any person who becomes lost, injured, or is killed while outdoors or as a result of a natural, technological, or human caused disaster, including instances involving searches for downed aircraft when ground personnel are used. Nothing in this section shall affect appropriate activity by the department of transportation under chapter 47.68 RCW.

(8) "Executive head" and "executive heads" means the county executive in those charter counties with an elective office of county executive, however designated, and, in the case of other counties, the county legislative authority. In the case of cities and towns, it means the mayor in those cities and towns with mayor-council or commission forms of government, where the mayor is directly elected, and it means the city manager in those cities and towns with council manager forms of government. Cities and towns may also designate an executive head for the purposes of this chapter by ordinance.

(9) "Director" means the adjutant general.

(10) "Local director" means the director of a local organization of emergency management or emergency services.

(11) "Department" means the state military department.

(12) "Emergency response" as used in RCW 38.52.430 means a public agency's use of emergency services during an emergency or disaster as defined in subsection (6)(b) of this section.

(13) "Expense of an emergency response" as used in RCW 38.52.430 means reasonable costs incurred by a public agency in reasonably making an appropriate emergency response to the incident, but shall only include those costs directly arising from the response to the particular incident. Reasonable costs shall include the costs of providing police, coroner, fire fighting, rescue, emergency medical services, or utility response at the scene of the incident, as well as the salaries of the personnel responding to the incident.

(14) "Public agency" means the state, and a city, county, municipal corporation, district, town, or public authority located, in whole or in part, within this state which provides or may provide fire fighting, police, ambulance, medical, or other emergency services.

(15) "Incident command system" means: (a) An all-hazards, on-scene functional management system that establishes common standards in organization, terminology, and procedures; provides a means (unified command) for the establishment of a common set of incident objectives and

strategies during multiagency/multijurisdiction operations while maintaining individual agency/jurisdiction authority, responsibility, and accountability; and is a component of the national interagency incident management system; or (b) an equivalent and compatible all-hazards, on-scene functional management system.

(16) "Radio communications service company" has the meaning ascribed to it in RCW 82.14B.020.

Sec. 2. RCW 38.52.180 and 1987 c 185 s 7 are each amended to read as follows:

(1) There shall be no liability on the part of anyone including any person, partnership, corporation, the state of Washington or any political subdivision thereof who owns or maintains any building or premises which have been designated by a local organization for emergency management as a shelter from destructive operations or attacks by enemies of the United States for any injuries sustained by any person while in or upon said building or premises, as a result of the condition of said building or premises or as a result of any act or omission, or in any way arising from the designation of such premises as a shelter, when such person has entered or gone upon or into said building or premises for the purpose of seeking refuge therein during destructive operations or attacks by enemies of the United States or during tests ordered by lawful authority, except for an act of willful negligence by such owner or occupant or his servants, agents, or employees.

(2) All legal liability for damage to property or injury or death to persons (except an emergency worker, regularly enrolled and acting as such), caused by acts done (or attempted during or while traveling to or from an emergency or disaster or search and rescue, or during training or exercise authorized by the department in preparation for an emergency or disaster or search and rescue, under the color of this chapter in a bona fide attempt to comply therewith, except as provided in subsections (3), (4), and (5) of this section regarding covered volunteer emergency workers, shall be the obligation of the state of Washington. Suits may be instituted and maintained against the state for the enforcement of such liability, or for the indemnification of persons appointed and regularly enrolled as emergency workers while actually engaged in emergency management duties, or as members of any agency of the state or political subdivision thereof engaged in emergency management activity, or their dependents, for damage done to their private property, or for any judgment against them for acts done in good faith in compliance with this chapter: PROVIDED, That the foregoing shall not be construed to result in indemnification in any case of willful misconduct, gross negligence or bad faith on the part of any agent of emergency management: PROVIDED, That should the United States or any agency thereof, in accordance with any federal statute, rule or regulation, provide for the payment of damages to property and/or for death or injury as provided for in this section, then and in that event there shall be no liability or obligation whatsoever upon the part of the state of Washington for any such damage, death, or injury for which the United States government assumes liability.

(3) No act or omission by a covered volunteer emergency worker while engaged in a covered activity shall impose any liability for civil damages resulting from such an act or omission upon:

(a) The covered volunteer emergency worker;
(b) The supervisor or supervisors of the covered volunteer emergency worker;

(c) Any facility or their officers or employees;
(d) The employer of the covered volunteer emergency worker;

(e) The owner of the property or vehicle where the act or omission may have occurred during the covered activity;

(f) Any local organization that registered the covered volunteer emergency worker; and

(g) The state or any state or local governmental entity.

(4) The immunity in subsection (3) of this section applies only when the covered volunteer emergency worker was engaged in a covered activity:

(a) Within the scope of his or her assigned duties;

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(b) Under the direction of a local emergency management organization or the department, or a local law enforcement agency for search and rescue; and

(c) The act or omission does not constitute gross negligence or willful or wanton misconduct.

(5) For purposes of this section:

(a) "Covered volunteer emergency worker" means an emergency worker as defined in RCW 38.52.010 who (i) is not receiving or expecting compensation as an emergency worker from the state or local government, or (ii) is not a state or local government employee unless on leave without pay status.

(b) "Covered activity" means:

(i) Providing assistance or transportation authorized by the department during an emergency or disaster or search and rescue as defined in RCW 38.52.010, whether such assistance or transportation is provided at the scene of the emergency or disaster or search and rescue, at an alternative care site, at a hospital, or while in route to or from such sites or between sites; or

(ii) Participating in training or exercise authorized by the department in preparation for an emergency or disaster or search and rescue.

(6) Any requirement for a license to practice any professional, mechanical or other skill shall not apply to any authorized emergency worker who shall, in the course of performing his duties as such, practice such professional, mechanical or other skill during an emergency described in this chapter.

((+)) (7) The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this chapter, or under the workers' compensation law, or under any pension or retirement law, nor the right of any such person to receive any benefits or compensation under any act of congress.

NEW SECTION. Sec. 3. RCW 38.52.570 (Immunity from liability for covered volunteers) and 2006 c 72 s 2 are each repealed."

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. 1073.

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 "workers;" strike the remainder of the title and insert "amending RCW 38.52.010 and 38.52.180; and repealing RCW 38.52.570."

MOTION

On motion of Senator Fairley, the rules were suspended, House Bill No. 1073 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 Fairley spoke in favor of passage of the bill.

MOTION

On motion of Senator Brandland, Senators Brown and McCaslin were excused.

MOTION

On motion of Senator Regala, Senator Pridemore was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 1073 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1073 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 Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Excused: Senator Brown - 1

HOUSE BILL NO. 1073 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 SUBSTITUTE HOUSE BILL NO. 1858, by House Committee on Transportation (originally sponsored by Representatives Fromhold, Curtis, Clibborn, Jarrett, Simpson, Springer and Moeller)

Regarding the imposition of fees by transportation benefit districts.

The measure was read the second time.

MOTION

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

On page 2, after line 30, insert the following: "(6) Fees imposed without voter approval under this section shall not supplant existing funds used for transportation improvements. For purposes of this subsection, existing funds mean the actual operating or capital expenditures for the calendar year in which the fee is authorized. Actual operating or capital expenditures excludes lost federal funds, lost or expired state grants or loans."

On page 3, after line 24, insert the following: "(3) Fees imposed without voter approval under this section shall not supplant existing funds used for transportation improvements as defined under RCW 36.73.015. For purposes of this subsection, existing funds means the actual operating or capital expenditures for the calendar year in which the fee is authorized. Actual operating or capital expenditures excludes lost federal funds, lost or expired state grants or loans."

Renumber the subsections consecutively and correct any internal references accordingly.

WITHDRAWAL OF AMENDMENT

On motion of Senator Benton, the amendment by Senator Benton on page 2, line 31 to Engrossed Substitute House Bill No. 1858 was withdrawn.

MOTION

On motion of Senator Murray, the rules were suspended, Engrossed Substitute House Bill No. 1858 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1858.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1858 and the bill passed the Senate by the following vote: Yeas, 32; Nays, 17; Absent, 0; Excused, 0.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Sheldon, Shin, Spanel, Tom and Weinstein - 32

Voting nay: Senators Benton, Brandland, Carrell, Clements, Delvin, Hewitt, Holmquist, Honeyford, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Stevens, Swecker and Zarelli - 17

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1858, 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. 1359, by House Committee on Appropriations (originally sponsored by Representatives Miloscia, Chase, Hasegawa, Pettigrew, Springer, Ormsby, Roberts, Darneille, Goodman and Santos)

Creating an affordable housing for all program.

The measure was read the second time.

MOTION

Senator Weinstein 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. (1) The legislature finds that there is a large, unmet need for affordable housing in the state of Washington. The legislature declares that a decent, appropriate, and affordable home in a healthy, safe environment for every household should be a state goal. Furthermore, this goal includes increasing the percentage of households who are able to obtain and retain housing without government subsidies or other public support.

(2) The legislature finds that there are many root causes of the affordable housing shortage and declares that these causal factors should be eliminated.

(3) The legislature finds that the support and commitment of all sectors of the statewide community is critical to accomplishing the state's affordable housing for all goal. The legislature finds that the provision of housing and housing-related services should be administered at the local level. However, the state should play a primary role in: Providing financial resources to achieve the goal at all levels of government; researching and evaluating statewide housing data; developing a state plan that integrates the strategies, goals, and objectives of all other state housing plans and programs; and coordinating and supporting county government plans and activities.

(4) The legislature declares that there is a state affordable housing goal of a decent, appropriate, and affordable home in a healthy, safe environment for every household in the state by 2020, as part of the statewide effort to end the affordable housing crisis.

NEW SECTION. Sec. 2. This chapter may be known and cited as the Washington affordable housing for all act.

NEW SECTION. Sec. 3. There is created within the department the state affordable housing for all program, which shall be funded by the affordable housing for all program surcharge provided for in RCW 36.22.178 (as recodified by this act) and all other sources directed to the affordable housing for all program. The goal of the program is a decent, appropriate, and affordable home in a healthy, safe environment for every very low-income household in the state by 2020. A priority must be placed upon achieving this goal for extremely low-income households. This goal includes increasing the percentage of households who access housing that is affordable for their income or wage level without government assistance by increasing the number of previously very low-income households who achieve self-sufficiency and economic independence. The goal also includes implementing strategies to keep the rising cost of housing below the relative rise in wages. The department shall develop and administer the affordable housing for all program. In the development and implementation of the program, the department shall consider: The funding level, number of county staff available to implement the program, and competency of each county to meet the goals of the program; and establish program guidelines and reporting requirements appropriate to the existing capacity of the participating counties.

NEW SECTION. Sec. 4. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Affordable housing" means residential housing, with monthly rental housing costs, including utilities other than telephone, which do not exceed thirty percent of the household's monthly income, that has a sales price within the means of a household that may occupy low, very low, and extremely low-income housing. The department shall adopt policies for residential homeownership housing, occupied by extremely low, very low, and low-income households, that specify the percentage of household income that may be spent on monthly housing costs, including utilities other than telephone, to qualify as affordable housing.

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

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

(4) "First-time home buyer" means an individual or his or her spouse who have not owned a home during the three-year period prior to purchase of a home.

(5) "Nonprofit organization" means any public or private nonprofit organization that: (a) Is organized under federal, state, or local laws; (b) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual; and (c) has among its purposes, significant activities related to the provision of decent housing that is affordable to extremely low-income, very low-income, low-income, or moderate-income households and special needs populations.

(6) "Regulatory barriers to affordable housing" and "regulatory barriers" mean any public policies, including those embodied in statutes, ordinances, regulations, or administrative procedures or processes, required to be identified by the state, cities, towns, or counties in connection with strategies under section 105(b)(4) of the Cranston-Gonzalez national affordable housing act (42 U.S.C. Sec. 12701 et seq.).

(7) "Affordable housing for all account" means the account in the custody of the state treasurer receiving the state's portion of income from the revenue of sources established by RCW 36.22.178 (as recodified by this act) and all other sources directed to the affordable housing for all program.

(8) "Performance evaluation" means the process of evaluating the performance by established objective, measurable criteria according to the achievement of outlined goals, measures, targets, standards, or other outcomes using a ranked scorecard from highest to lowest performance which employs a scale of one to one hundred, one hundred being the optimal score.

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(9) "Affordable housing for all program" means the program authorized under this chapter, utilizing the funding from the affordable housing for all program surcharge in RCW 36.22.178 (as recodified by this act), and all other sources directed to the affordable housing for all program, as administered by the department at the state level and by each county at the local level.

(10) "State affordable housing for all plan" or "state plan" means the plan developed by the department in collaboration with the affordable housing advisory board with the goal of ensuring that every very low-income household in Washington has a decent, appropriate, and affordable home in a healthy, safe environment by 2020.

(11) "Low-income household," for the purposes of the affordable housing for all program, means a single person, family, or unrelated persons living together whose adjusted income is less than eighty percent of the median household income, adjusted for household size for the county where the project is located.

(12) "Very low-income household" means a single person, family, or unrelated persons living together whose adjusted income is less than fifty percent of the median family income, adjusted for household size for the county where the project is located.

(13) "Extremely low-income household" means a single person, family, or unrelated persons living together whose adjusted income is less than thirty percent of the median family income, adjusted for household size for the county where the project is located.

(14) "County" means a county government in the state of Washington or, except under RCW 36.22.178 (as recodified by this act), a city government or collaborative of city governments within that county if the county government declines to participate in the affordable housing program.

(15) "Local government" means a county or city government in the state of Washington or, except under RCW 36.22.178 (as recodified by this act), a city government or collaborative of city governments within that county if the county government declines to participate in the affordable housing program.

(16) "Authority" or "housing authority" means any of the public corporations created by RCW 35.82.030.

Sec. 5. RCW 43.185B.040 and 1993 c 478 s 12 are each amended to read as follows:

(1) The department shall, in consultation with the affordable housing advisory board created in RCW 43.185B.020, prepare and, from time to time, amend a ~~((five-year))~~ state affordable housing ((advisory)) for all plan. The state plan must incorporate strategies, objectives, and goals, including those required for the state homeless housing strategic plan required under RCW 43.185C.040. The state affordable housing for all plan may be combined with the state homeless housing strategic plan required under RCW 43.185C.040 or any other existing state housing plan as long as the requirements of all of the plans to be merged are met.

~~(2)~~ The purpose of the state affordable housing for all plan is to:

~~(a)~~ Document the need for affordable housing in the state and the extent to which that need is being met through public and private sector programs ~~((; to))~~;

~~(b)~~ Evaluate and report upon all counties' use of the affordable housing for all program surcharge funds provided for in RCW 36.22.178 (as recodified by this act) and all other sources directed to the counties' affordable housing for all programs;

~~(c)~~ Report upon housing trust fund awards within the previous five-year period; and

~~(d)~~ Facilitate state and county government planning to meet the state affordable housing ((needs of the state, and to enable the development of sound strategies and programs for affordable housing)) for all goal.

(3) The information in the ~~((five-year))~~ state affordable housing ((advisory)) for all plan must include:

(a) An assessment of the state's housing market trends;

(b) An assessment of the housing needs for ~~((att))~~ economic segments of the state by low-income, very low-income, and

extremely low-income households and special needs populations, including a report on the number and percentage of additional affordable rental housing units that are needed statewide and in each county to house low-income, very low-income, and extremely low-income households;

~~(c)~~ An inventory of the supply and geographic distribution of affordable housing rental units made available through public and private sector programs;

~~(d)~~ A summary of the activities of all state housing programs, as well as all housing programs operated by or coordinated by city and county governments, including local housing-related levy initiatives, housing-related tax exemption programs, and federally funded programs operated or coordinated by the state or local governments;

~~(e)~~ A status report on the degree of progress made by the public and private sector toward meeting the housing needs of the state, including each county or city required by the United States department of housing and urban development to produce a consolidated plan, and any other city or county where information is readily available;

~~((e))~~ ~~(f)~~ An identification of state and local regulatory barriers to affordable housing and proposed regulatory and administrative techniques designed to remove barriers to the development and placement of affordable housing; ~~((and~~

~~(f))~~ ~~(g)~~ An analysis, statewide and within each county and major city, of the primary contributors to the cost of housing and an outline of potential strategies to keep the increasing cost of housing below the relative rise in wages;

~~(h)~~ Specific recommendations, policies, or proposals for meeting the affordable housing needs of the state;

~~(i)~~ A report on the growth in the population of low-income, very low-income, and extremely low-income households statewide and for each county;

~~(j)~~ A determination of the cost to the state of the affordable housing shortage;

~~(k)~~ A report of any differences in the rates of inflation between median house prices, median rent for a two-bedroom apartment, and median family income for low-income, very low-income, and extremely low-income households; and

~~(l)~~ A summary of the recommendations of the affordable housing advisory board report as required in RCW 43.185B.030.

~~((2(a)))~~ (4) The ~~((five-year))~~ state affordable housing ((advisory)) for all plan required under ~~((subsection (1) of))~~ this section must be submitted to the appropriate committees of the legislature on or before ~~((February 1, 1994))~~ December 31, 2010, and subsequent updated plans must be submitted by December 31st every five years thereafter.

~~((b))~~ Each February 1st, beginning February 1, 1995, the department shall submit an annual progress report to the legislature, detailing the extent to which the state's affordable housing needs were met during the preceding year and recommendations for meeting those needs)

(5) Based on changes to the general population and in the housing market, the department may revise the goals of the state affordable housing for all plan and set goals for years following December 31, 2020.

Sec. 6. RCW 36.22.178 and 2005 c 484 s 18 are each amended to read as follows:

The surcharge provided for in this section shall be named the affordable housing for all program surcharge.

(1) Except as provided in subsection ~~((2))~~ (3) of this section, a surcharge of ten dollars per instrument shall be charged by the county auditor for each document recorded, which will be in addition to any other charge authorized by law.

The county may retain up to five percent of these funds collected solely for the collection, administration, and local distribution of these funds. Of the remaining funds, forty percent of the revenue generated through this surcharge will be transmitted monthly to the state treasurer who will deposit the funds into the ~~((Washington housing trust account))~~ affordable housing for all account created in section 7 of this act. ~~((The office of community development of the department of community, trade, and economic development will develop guidelines for the use of these funds to support))~~ The department

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of community, trade, and economic development must use these funds to provide housing and shelter for extremely low-income households, including but not limited to grants for building operation and maintenance costs of housing projects or units within housing projects that are affordable to extremely low-income ((persons)) households with incomes at or below thirty percent of the area median income, and that require a supplement to rent income to cover ongoing operating expenses. (2) All of the remaining funds generated by this surcharge will be retained by the county and be deposited into a fund that must be used by the county and its cities and towns for eligible housing ((projects or units within housing projects that are affordable to)) activities as described in this subsection that serve very low-income ((persons)) households with incomes at or below fifty percent of the area median income. The portion of the surcharge retained by a county shall be allocated to eligible housing activities that serve extremely low and very low-income ((housing projects or units within such housing projects)) households in the county and the cities within a county according to an interlocal agreement between the county and the cities within the county consistent with countywide and local housing needs and policies. ~~((The funds generated with this surcharge shall not be used for construction of new housing if at any time the vacancy rate for available low-income housing within the county rises above ten percent. The vacancy rate for each county shall be developed using the state low-income vacancy rate standard developed under subsection (3) of this section. Uses of))~~ A priority must be given to eligible housing activities that serve extremely low-income households with incomes at or below thirty percent of the area median income. Eligible housing activities to be funded by these ((local)) county funds are limited to:

(a) Acquisition, construction, or rehabilitation of housing projects or units within housing projects that are affordable to very low-income ((persons)) households with incomes at or below fifty percent of the area median income, including units for homeownership, rental units, seasonal and permanent farm worker housing units, and single room occupancy units;

(b) Supporting building operation and maintenance costs of housing projects or units within housing projects eligible to receive housing trust funds, that are affordable to very low-income ((persons)) households with incomes at or below fifty percent of the area median income, and that require a supplement to rent income to cover ongoing operating expenses;

(c) Rental assistance vouchers for housing ((projects or)) units ~~((within housing projects))~~ that are affordable to very low-income ((persons)) households with incomes at or below fifty percent of the area median income, to be administered by a local public housing authority or other local organization that has an existing rental assistance voucher program, consistent with or similar to the United States department of housing and urban development's section 8 rental assistance voucher program standards; and

(d) Operating costs for emergency shelters and licensed overnight youth shelters.

~~((2))~~ (3) The surcharge imposed in this section does not apply to assignments or substitutions of previously recorded deeds of trust.

~~((3))~~ The real estate research center at Washington State University shall develop a vacancy rate standard for low-income housing in the state as described in RCW 18.85.540(1)(i))

(4) All counties shall report at least annually upon receipts and expenditures of the affordable housing for all program surcharge funds created in this section to the department. The department may require more frequent reports. The report must include the amount of funding generated by the surcharge, the total amount of funding distributed to date, the amount of funding allocated to each eligible housing activity, a description of each eligible housing activity funded, including information on the income or wage level and numbers of extremely low, very low, and low-income households the eligible housing activity is intended to serve, and the outcome or anticipated outcome of each eligible housing activity.

NEW SECTION. Sec. 7. The affordable housing for all account is created in the state treasury, subject to appropriation.

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The state's portion of the surcharges established in RCW 36.22.178 (as recodified by this act) shall be deposited in the account, as well as all other sources directed to the affordable housing for all program. Expenditures from the account may only be used for affordable housing programs.

NEW SECTION. Sec. 8. This chapter does not require either the department or any local government to expend any funds to accomplish the goals of this chapter other than the revenues authorized in this act and other revenue that may be appropriated by the legislature for these purposes. However, neither the department nor any local government may use any funds authorized in this act to supplant or reduce any existing expenditures of public money to address the affordable housing shortage.

NEW SECTION. Sec. 9. (1) The department, the Washington state housing finance commission, the affordable housing advisory board, and all county governments, housing authorities, and other nonprofit organizations receiving state funds, county affordable housing for all surcharge funds, county homeless housing surcharge funds as authorized in RCW 36.22.179 (as recodified by this act), or financing through the housing finance commission shall, by December 31, 2007, and annually thereafter, review current housing reporting requirements related to housing programs and services and give recommendations to the legislature to streamline and simplify all planning and reporting requirements. The entities listed in this section shall also give recommendations for additional legislative actions that could promote the affordable housing for all goal.

(2) The department shall collaborate with the Washington state housing finance commission and representatives from statewide organizations representing counties, cities, housing authorities, nonprofit groups involved in affordable housing, and other interested parties, to create a strategy to streamline and, when possible, consolidate state, city, town, and county reporting requirements to address the inefficiencies associated with multiple reporting requirements. The department shall present the strategy to the appropriate committees of the legislature by December 31, 2007.

Sec. 10. RCW 43.63A.650 and 1999 c 267 s 3 are each amended to read as follows:

(1) The department shall be the principal state department responsible for coordinating federal and state resources and activities in housing, except for programs administered by the Washington state housing finance commission under chapter 43.180 RCW, and for evaluating the operations and accomplishments of other state departments and agencies as they affect housing, except for programs administered by the Washington state housing finance commission under chapter 43.180 RCW.

(2) The department shall work with ~~((local governments))~~ cities, towns, counties, tribal organizations, local housing authorities, nonprofit community or neighborhood-based organizations, and regional or statewide nonprofit housing assistance organizations, for the purpose of coordinating federal and state resources with local resources for housing.

(3) The department shall be the principal state department responsible for providing shelter and housing services to homeless families with children. The department shall have the principal responsibility to coordinate, plan, and oversee the state's activities for developing a coordinated and comprehensive plan to serve homeless families with children. The plan shall be developed collaboratively with the department of social and health services. The department shall include community organizations involved in the delivery of services to homeless families with children, and experts in the development and ongoing evaluation of the plan. The department shall follow professionally recognized standards and procedures. The plan shall be implemented within amounts appropriated by the legislature for that specific purpose in the operating and capital budgets. The department shall submit the plan to the appropriate committees of the senate and house of representatives no later than September 1, 1999, and shall update the plan and submit it to the appropriate committees of the legislature by January 1st of every odd-numbered year

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through 2007. The plan shall address at least the following: (a) The need for prevention assistance; (b) the need for emergency shelter; (c) the need for transitional assistance to aid families into permanent housing; (d) the need for linking services with shelter or housing; and (e) the need for ongoing monitoring of the efficiency and effectiveness of the plan's design and implementation.

Sec. 11. RCW 43.185C.005 and 2005 c 484 s 1 are each amended to read as follows:

Despite laudable efforts by all levels of government, private individuals, nonprofit organizations, and charitable foundations to end homelessness, the number of homeless persons in Washington is unacceptably high. The state's homeless population, furthermore, includes a large number of families with children, youth, and employed persons. The legislature finds that the fiscal and societal costs of homelessness are high for both the public and private sectors, and that ending homelessness ~~(should)~~ must be a goal for state and local government.

The legislature finds that there are many causes of homelessness, including a shortage of affordable housing; a shortage of family-wage jobs which undermines housing affordability; a lack of an accessible and affordable health care system available to all who suffer from physical and mental illnesses and chemical and alcohol dependency; domestic violence; ~~(and)~~ a lack of education and job skills necessary to acquire adequate wage jobs in the economy of the twenty-first century; inadequate availability of services for citizens with mental illness and developmental disabilities living in the community; and the difficulties faced by formerly institutionalized persons in reintegrating to society and finding stable employment and housing.

The support and commitment of all sectors of the statewide community is critical to the chances of success in ending homelessness in Washington. While the provision of housing and housing-related services to the homeless should be administered at the local level to best address specific community needs, the legislature also recognizes the need for the state to play a primary coordinating, supporting, ~~(and)~~ monitoring, and evaluating role. There must be a clear assignment of responsibilities and a clear statement of achievable and quantifiable goals. Systematic statewide data collection on ~~(homelessness)~~ homeless individuals in Washington must be a critical component of such a program enabling the state to work with local governments not only to count all homeless people in the state, but to record and manage information about homeless persons (and) in order to assist them in finding housing and other supportive services.

The systematic collection and rigorous evaluation of homeless data, a nationwide search for and implementation through adequate resource allocation of best practices, and the systematic measurement of progress toward interim goals and the ultimate goal of ending homelessness are all necessary components of a statewide effort to end homelessness in Washington by July 1, 2015.

Sec. 12. RCW 43.185C.040 and 2005 c 484 s 7 are each amended to read as follows:

(1) ~~(Six months after the first Washington homeless census,)~~ The department shall, in consultation with the interagency council on homelessness, the state advisory council on homelessness, and the affordable housing advisory board, prepare and (publish a ten-year homeless housing) annually update a state homeless housing strategic plan which (shall) must outline statewide goals and performance measures (and shall be coordinated with the plan for homeless families with children required under RCW 43.63A.650. To guide local governments in preparation of their first local homeless housing plans due December 31, 2005, the department shall issue by October 15, 2005, temporary guidelines consistent with this chapter and including the best available data on each community's homeless population). Local governments' ~~(ten-year homeless housing)~~ homeless housing plans (shall not) must include all of the performance measures included in the state homeless housing strategic plan and must be substantially (inconsistent) consistent with the goals and program

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recommendations of ~~(the temporary guidelines and, when amended after 2005,)~~ the state homeless housing strategic plan.

(2) Program outcomes and performance measures and goals ~~(shall)~~ must be created by the department and reflected in the department's (homeless housing) state homeless housing strategic plan (as well as) and all local homeless housing plans.

(3) Interim goals against which state and local governments' performance may be measured must also be described and reported upon in the state homeless housing strategic plan, including:

(a) ~~(By the end of year one, completion of the first census as described in RCW 43.185C.030;~~

~~(b))~~ By the end of each subsequent year, goals common to all state and local programs which are measurable and the achievement of which would move that community toward housing its homeless population; and

~~((c))~~ (b) By July 1, 2015, reduction of the homeless population statewide and in each county by fifty percent.

~~((d))~~ (4) The department shall develop a consistent statewide data gathering instrument to monitor the performance of cities and counties receiving homeless housing grants in order to determine compliance with the terms and conditions set forth in the homeless housing grant application or required by the department.

(5) The department shall, in consultation with the interagency council on homelessness, the state advisory council on homelessness, and the affordable housing advisory board, report annually to the governor and the appropriate committees of the legislature ~~(an assessment of)~~ the fiscal and societal costs of the homeless crisis, including identifying, to the extent practical, savings in state and local program costs that could be obtained through the achievement of stable housing for the clients served by those programs.

(6) The department shall also deliver a summary annual report, including information about:

(a) All state programs addressing homeless housing and services;

(b) The state's performance in furthering the goals of the state (ten-year) homeless housing strategic plan; and

(c) The performance of each participating local government in creating and executing a local homeless housing plan (which) that meets the requirements of this chapter. ((The annual report may include performance measures such as:

(a) The reduction in the number of homeless individuals and families from the initial count of homeless persons;

(b) The number of new units available and affordable for homeless families by housing type;

(c) The number of homeless individuals identified who are not offered suitable housing within thirty days of their request or identification as homeless;

(d) The number of households at risk of losing housing who maintain it due to a preventive intervention;

(e) The transition time from homelessness to permanent housing;

(f) The cost per person housed at each level of the housing continuum;

(g) The ability to successfully collect data and report performance;

(h) The extent of collaboration and coordination among public bodies, as well as community stakeholders, and the level of community support and participation;

(i) The quality and safety of housing provided; and

(j) The effectiveness of outreach to homeless persons, and their satisfaction with the program.

~~(4))~~ (7) The state homeless housing plan must also include a response to each recommendation included in the local homeless housing plans for policy changes to assist in ending homelessness and a summary of the recommendations to the legislature to streamline and simplify all housing planning and reporting requirements, as required in section 9 of this act.

(8) Based on the performance of local homeless housing programs in meeting their interim goals, on general population changes and on changes in the homeless population recorded in the ~~(annual)~~ census, the department may revise the performance measures and goals of the state homeless housing

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strategic plans, set goals for years following the initial ten-year period, and recommend changes in local governments' homeless housing plans.

Sec. 13. RCW 43.185C.050 and 2005 c 484 s 8 are each amended to read as follows:

(1)(a)(i) Each local homeless housing task force shall prepare and recommend to its local government legislative authority a ~~((ten-year))~~ local homeless housing plan for its jurisdictional area ~~((which shall be not inconsistent))~~ that is consistent with the department's ~~((statewide temporary guidelines, for the December 31, 2005, plan, and thereafter the department's ten-year homeless housing))~~ state homeless housing strategic plan and ~~((which shall be))~~ is aimed at eliminating homelessness, with a minimum goal of reducing homelessness by fifty percent by July 1, 2015. ~~((The local government may amend the proposed local plan and shall adopt a plan by December 31, 2005. Performance in meeting the goals of this local plan shall be assessed annually in terms of the performance measures published by the department.))~~

(ii) Local plans must include specific strategic objectives, consistent with the state plan, and must include corresponding action plans. Local plans must address identified strategies to meet the needs of all homeless populations, including chronic homeless, short-term homeless, families, individuals, and youth. Each local plan must include the total estimated cost of accomplishing the goals of the plan to reduce homelessness by fifty percent by July 1, 2015, and must include an accounting of total committed funds for this purpose.

(b)(i) The department must conduct an annual performance evaluation of each local plan by December 31st of each year beginning in 2007. The department must also conduct an annual performance evaluation of each local government's performance related to its local plan by December 31st of each year beginning in 2007.

(ii) Local plans may include specific local performance measures adopted by the local government legislative authority((;)) and ((may)) must include recommendations for ((any)) state legislation needed to meet the state or local plan goals. The recommendations must be specific and must, if funding is required, include an estimated amount of funding required and suggestions for an appropriate funding source.

(2) Eligible activities under the local plans include:

(a) Rental and furnishing of dwelling units for the use of homeless persons;

(b) Costs of developing affordable housing for homeless persons, and services for formerly homeless individuals and families residing in transitional housing or permanent housing and still at risk of homelessness;

(c) Operating subsidies for transitional housing or permanent housing serving formerly homeless families or individuals;

(d) Services to prevent homelessness, such as emergency eviction prevention programs, including temporary rental subsidies to prevent homelessness;

(e) Temporary services to assist persons leaving state institutions and other state programs to prevent them from becoming or remaining homeless;

(f) Outreach services for homeless individuals and families;

(g) Development and management of local homeless housing plans, including homeless census data collection((;)) and information, identification of goals, performance measures, strategies, and costs, and evaluation of progress towards established goals;

(h) Rental vouchers payable to landlords for persons who are homeless or below thirty percent of the median income or in immediate danger of becoming homeless; and

(i) Other activities to reduce and prevent homelessness as identified for funding in the local plan.

Sec. 14. RCW 43.185C.080 and 2005 c 484 s 12 are each amended to read as follows:

(1) ~~((Only a local government is eligible to receive a homeless housing grant from the homeless housing account. Any city may assert responsibility for homeless housing within its borders if it so chooses, by forwarding a resolution to the legislative authority of the county stating its intention and its~~

~~commitment to operate a separate homeless housing program. The city shall then receive a percentage of the surcharge assessed under RCW 36.22.179 equal to the percentage of the city's local portion of the real estate excise tax collected by the county. A participating city may also then apply separately for homeless housing program grants. A city choosing to operate a separate homeless housing program shall be responsible for complying with all of the same requirements as counties and shall adopt a local homeless housing plan meeting the requirements of this chapter for county local plans. However, the city may by resolution of its legislative authority accept the county's homeless housing task force as its own and based on that task force's recommendations adopt a homeless housing plan specific to the city.~~

~~((2))~~ Local governments ~~((applying for homeless housing funds))~~ may subcontract with any other local government, housing authority, community action agency, or other nonprofit organization for the execution of programs contributing to the overall goal of ending homelessness within a defined service area. All subcontracts ~~((shall))~~ must be consistent with the local homeless housing plan adopted by the legislative authority of the local government, time limited, and filed with the department, and ~~((shall))~~ must have specific performance terms. While a local government has the authority to subcontract with other entities, the local government continues to maintain the ultimate responsibility for the homeless housing program within its ~~((borders))~~ jurisdiction.

~~((3))~~ (2) A county may decline to participate in the homeless housing program authorized in this chapter by forwarding to the department a resolution adopted by the county legislative authority stating the intention not to participate. A copy of the resolution ~~((shall))~~ must also be transmitted to the county auditor and treasurer. If ~~((such a))~~ the resolution is adopted, all of the funds otherwise due to the county under RCW ~~((43.185C.060 shall))~~ 36.22.179 (as recodified by this act) and section 17 of this act, minus funds due to any city that has chosen to participate through the process established in subsection (3) of this section, must be remitted monthly to the state treasurer for deposit in the ~~((homeless housing))~~ home security fund account, without any reduction by the county for collecting or administering the funds. Upon receipt of the resolution, the department shall promptly begin to identify and contract with one or more entities eligible under this section to create and execute a local homeless housing plan for the county meeting the requirements of this chapter. The department shall expend all of the funds received from the county under this subsection to carry out the purposes of this chapter ~~((484, Laws of 2005))~~ in the county, ~~((provided that))~~ but the department may retain six percent of these funds to offset the cost of managing the county's program.

(3) Any city may assert responsibility for homeless housing within its borders, by forwarding a resolution to the legislative authority of the county stating its intention and its commitment to operate a separate homeless housing program. A city choosing to operate a separate homeless housing program receives a percentage of the surcharge assessed under RCW 36.22.179 (as recodified by this act) and under section 17 of this act equal to the percentage of the city's local portion of the real estate excise tax collected by the county. A participating city may also then apply separately for homeless housing grants. A city choosing to operate a separate homeless housing program must comply with all of the same requirements as counties and shall adopt a local homeless housing plan meeting the requirements of this chapter for local homeless housing plans.

(4) A resolution by the county declining to participate in the program ~~((shall have))~~ has no effect on the ~~((ability))~~ authority of each city in the county to assert its right to manage its own program under this chapter, and the county shall monthly transmit to ~~((the))~~ any such city the funds due under ~~((this chapter))~~ RCW 36.22.179 (as recodified by this act) and section 17 of this act.

Sec. 15. RCW 43.185C.160 and 2005 c 485 s 1 are each amended to read as follows:

(1) Each county shall create a homeless housing task force to develop a ~~((ten-year))~~ homeless housing plan addressing

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short-term and long-term services and housing ~~((for homeless persons))~~ to prevent and reduce homelessness by fifty percent by 2015.

Membership on the task force may include representatives of the counties, cities, towns, housing authorities, civic and faith organizations, schools, community networks, human services providers, law enforcement personnel, criminal justice personnel, including prosecutors, probation officers, and jail administrators, substance abuse treatment providers, mental health care providers, emergency health care providers, businesses, at-large representatives of the community, and a homeless or formerly homeless individual.

In lieu of creating a new task force, a local government may designate an existing governmental or nonprofit body ~~((which))~~ that substantially conforms to this section and ~~((which))~~ includes at least one homeless or formerly homeless individual to serve as its homeless representative. As an alternative to a separate plan, two or more local governments may work in concert to develop and execute a joint homeless housing plan, or to contract with another entity to do so according to the requirements of this chapter. While a local government has the authority to subcontract with other entities, the local government continues to maintain the ultimate responsibility for the homeless housing program within its borders.

~~((A county may decline to participate in the program authorized in this chapter by forwarding to the department a resolution adopted by the county legislative authority stating the intention not to participate. A copy of the resolution shall also be transmitted to the county auditor and treasurer. If a county declines to participate, the department shall create and execute a local homeless housing plan for the county meeting the requirements of this chapter.))~~

(2) In addition to developing a ~~((ten-year))~~ homeless housing plan, each task force shall establish guidelines consistent with the ~~((statewide))~~ state homeless housing strategic plan, as needed, for the following:

- (a) Emergency shelters;
- (b) Short-term housing needs;
- (c) Temporary encampments;
- (d) Rental voucher programs;
- (e) Supportive housing for chronically homeless persons;
- ~~((and~~
- ~~((e)))~~ (f) Long-term housing; and
- ~~((g))~~ (g) Prevention services.

Guidelines must include, when appropriate, standards for health and safety and notifying the public of proposed facilities to house the homeless.

(3) Each county ~~((including counties exempted from creating a new task force under subsection (1) of this section,))~~ shall report to the department of community, trade, and economic development ~~((such))~~ any information ~~((as may be))~~ needed to ensure compliance with this chapter.

Sec. 16. RCW 36.22.179 and 2005 c 484 s 9 are each amended to read as follows:

(1) In addition to the surcharge authorized in RCW 36.22.178 ~~((as recodified by this act)),~~ and except as provided in subsection (2) of this section, an additional surcharge of ten dollars shall be charged by the county auditor for each document recorded, which will be in addition to any other charge allowed by law. The funds collected pursuant to this section are to be distributed and used as follows:

(a) The auditor shall retain two percent for collection of the fee, and of the remainder shall remit sixty percent to the county to be deposited into a fund that must be used by the county and its cities and towns to accomplish the purposes of this chapter ~~((484, Laws of 2005)),~~ six percent of which may be used by the county for administrative costs related to its homeless housing plan, and the remainder for programs which directly accomplish the goals of the county's local homeless housing plan, except that for each city in the county which elects as authorized in RCW 43.185C.080 to operate its own local homeless housing program, a percentage of the surcharge assessed under this section equal to the percentage of the city's local portion of the real estate excise tax collected by the county shall be transmitted at least quarterly to the city treasurer, without any deduction for

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county administrative costs, for use by the city for program costs which directly contribute to the goals of the city's local homeless housing plan; of the funds received by the city, it may use six percent for administrative costs for its homeless housing program.

(b) The auditor shall remit the remaining funds to the state treasurer for deposit in the ~~((homeless housing))~~ home security fund account. The department may use twelve and one-half percent of this amount for administration of the program established in RCW 43.185C.020, including the costs of creating the statewide homeless housing strategic plan, measuring performance, providing technical assistance to local governments, and managing the homeless housing grant program. The remaining eighty-seven and one-half percent is to be ~~((distributed by the department to local governments through the homeless housing grant program))~~ used by the department to:

- (i) Provide housing and shelter for homeless people including, but not limited to: Grants to operate, repair, and staff shelters; grants to operate transitional housing; partial payments for rental assistance; consolidated emergency assistance; overnight youth shelters; and emergency shelter assistance; and
- (ii) Fund the homeless housing grant program.

(2) The surcharge imposed in this section does not apply to assignments or substitutions of previously recorded deeds of trust.

NEW SECTION. Sec. 17. A new section is added to chapter 43.185C RCW to read as follows:

(1) In addition to the surcharges authorized in RCW 36.22.178 and 36.22.179 (as recodified by this act), and except as provided in subsection (2) of this section, the county auditor shall charge an additional surcharge of two dollars for each document recorded, which is in addition to any other charge allowed by law. The funds collected under this section are to be distributed and used as follows:

(a) The auditor shall remit ninety percent to the county to be deposited into a fund six percent of which may be used by the county for administrative costs related to its homeless housing plan, and the remainder for programs that directly accomplish the goals of the county's local homeless housing plan, except that for each city in the county that elects, as authorized in RCW 43.185C.080(3), to operate its own homeless housing program, a percentage of the surcharge assessed under this section equal to the percentage of the city's local portion of the real estate excise tax collected by the county must be transmitted at least quarterly to the city treasurer for use by the city for program costs that directly contribute to the goals of the city's homeless housing plan.

(b) The auditor shall remit the remaining funds to the state treasurer for deposit in the home security fund account. The department may use the funds for administering the program established in RCW 43.185C.020, including the costs of creating and updating the statewide homeless housing strategic plan, implementing and managing the Washington homeless client management information system established in RCW 43.185C.180, measuring performance, providing technical assistance to local governments, and managing the homeless housing grant program. Remaining funds may also be used to:

- (i) Provide housing and shelter for homeless people including, but not limited to: Grants to operate, repair, and staff shelters; grants to operate transitional housing; partial payments for rental assistance; consolidated emergency assistance; overnight youth shelters; and emergency shelter assistance; and
- (ii) Fund the homeless housing grant program.

(2) The surcharge imposed in this section does not apply to assignments or substitutions of previously recorded deeds of trust.

Sec. 18. RCW 36.18.010 and 2005 c 484 s 19 and 2005 c 374 s 1 are each reenacted and amended to read as follows:

County auditors or recording officers shall collect the following fees for their official services:

(1) For recording instruments, for the first page eight and one-half by fourteen inches or less, five dollars; for each additional page eight and one-half by fourteen inches or less, one dollar. The fee for recording multiple transactions

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contained in one instrument will be calculated for each transaction requiring separate indexing as required under RCW 65.04.050 as follows: The fee for each title or transaction is the same fee as the first page of any additional recorded document; the fee for additional pages is the same fee as for any additional pages for any recorded document; the fee for the additional pages may be collected only once and may not be collected for each title or transaction;

(2) For preparing and certifying copies, for the first page eight and one-half by fourteen inches or less, three dollars; for each additional page eight and one-half by fourteen inches or less, one dollar;

(3) For preparing noncertified copies, for each page eight and one-half by fourteen inches or less, one dollar;

(4) For administering an oath or taking an affidavit, with or without seal, two dollars;

(5) For issuing a marriage license, eight dollars, (this fee includes taking necessary affidavits, filing returns, indexing, and transmittal of a record of the marriage to the state registrar of vital statistics) plus an additional five-dollar fee for use and support of the prevention of child abuse and neglect activities to be transmitted monthly to the state treasurer and deposited in the state general fund plus an additional ten-dollar fee to be transmitted monthly to the state treasurer and deposited in the state general fund. The legislature intends to appropriate an amount at least equal to the revenue generated by this fee for the purposes of the displaced homemaker act, chapter 28B.04 RCW;

(6) For searching records per hour, eight dollars;

(7) For recording plats, fifty cents for each lot except cemetery plats for which the charge shall be twenty-five cents per lot; also one dollar for each acknowledgment, dedication, and description: PROVIDED, That there shall be a minimum fee of twenty-five dollars per plat;

(8) For recording of miscellaneous records not listed above, for the first page eight and one-half by fourteen inches or less, five dollars; for each additional page eight and one-half by fourteen inches or less, one dollar;

(9) For modernization and improvement of the recording and indexing system, a surcharge as provided in RCW 36.22.170;

(10) For recording an emergency nonstandard document as provided in RCW 65.04.047, fifty dollars, in addition to all other applicable recording fees;

(11) For recording instruments, a surcharge as provided in RCW 36.22.178 (as recodified by this act); ~~(and~~ ~~—{(12)}))~~ (12) For recording instruments, except for documents recording a birth, marriage, divorce, or death or any documents otherwise exempted from a recording fee under state law, a surcharge as provided in RCW 36.22.179 (as recodified by this act); and

~~(13) For recording instruments, except for documents recorded by the department of revenue, the department of labor and industries, and the employment security department and for documents recording a birth, marriage, divorce, or death or any documents otherwise exempted from a recording fee under state law, a surcharge as provided in section 17 of this act.~~

Sec. 19. RCW 43.185C.150 and 2005 c 484 s 21 are each amended to read as follows:

This chapter does not require either the department or any local government to expend any funds to accomplish the goals of this chapter other than the revenues authorized in (~~chapter 484, Laws of 2005~~) RCW 36.22.179 (as recodified by this act) and the revenues authorized in section 17 of this act. However, neither the department nor any local government may use any funds authorized in (~~chapter 484, Laws of 2005~~) RCW 36.22.179 (as recodified by this act) or the revenues authorized in section 17 of this act to supplant or reduce any existing expenditures of public money for the reduction or prevention of homelessness or services for homeless persons. Any costs associated with any new planning, evaluating, and reporting requirements of the department for the homeless housing and assistance program included in this chapter shall not be funded by the document recording fee surcharges authorized by RCW 36.22.178 and 36.22.179 (as recodified by this act).

Sec. 20. RCW 43.185C.060 and 2005 c 484 s 10 are each amended to read as follows:

The (~~homeless housing~~) home security fund account is created in the (~~custody of the~~) state (~~treasurer~~) treasury, subject to appropriation. The state's portion of the surcharge established in RCW 36.22.179 (as recodified by this act) and section 17 of this act must be deposited in the account. Expenditures from the account may be used only for (~~the~~) homeless housing programs (as described in this chapter. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures).

NEW SECTION. Sec. 21. RCW 36.22.179 and 43.20A.790 are each recodified as sections in chapter 43.185C RCW.

NEW SECTION. Sec. 22. RCW 36.22.178, 43.63A.650, and 43.185B.040 are each recodified as sections in chapter 43.-- RCW (created in section 23 of this act).

NEW SECTION. Sec. 23. Sections 1 through 4 and 7 through 9 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 24. If specific funding for the purposes of sections 1 through 10 of this act, referencing sections 1 through 10 of this act by bill or chapter number and section number, is not provided by June 30, 2007, in the omnibus appropriations act, sections 1 through 10 of this act are null and void."

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. 1359.

The motion by Senator Weinstein 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 "all;" strike the remainder of the title and insert "amending RCW 43.185B.040, 36.22.178, 43.63A.650, 43.185C.005, 43.185C.040, 43.185C.050, 43.185C.080, 43.185C.160, 36.22.179, 43.185C.150, and 43.185C.060; reenacting and amending RCW 36.18.010; adding new sections to chapter 43.185C RCW; adding a new chapter to Title 43 RCW; creating a new section; and recodifying RCW 36.22.179, 43.20A.790, 36.22.178, 43.63A.650, and 43.185B.040."

MOTION

On motion of Senator Weinstein, the rules were suspended, Engrossed Second Substitute House Bill No. 1359 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 Weinstein spoke in favor of passage of the bill.

PARLIAMENTARY INQUIRY

Senator Honeyford: "Thank you Mr. President. I submit to you that this measure takes a two-thirds vote for final passage under Initiative 601 because it raises state revenue. Mr. President, this bill would oppose a two dollar surcharge on recording documents filed with the county auditor. Ten percent of the revenue generated by the surcharge, approximately six hundred, forty thousand dollars per biennium, would remit back to the state and deposit into a new home security fund account from which CTED is authorized to use the money to fight homelessness in a variety of ways. Mr. President, your previous rulings have indicated that the dispositive issue is whether the revenue is placed in the state appropriated account is generated by user fee or a tax. As you stated a few weeks ago, there must be reasonable connection between the fee, those paying it and

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the purpose on which the proceeds may be spent. Failing this is a tax and a super majority is required. This ruling is in accordance with Washington case law which has held a user fee is a charge related to and commensurate to either the service provider. The user or the burden imposed on the user activity. There's no such relationship here. County auditor records all types of documents including: 'deeds of trust, community property agreements, directing of marital assets, records of veterans' honorable military discharges and even notice of abandoned cemeteries. None of these have a requisite nexus to homelessness that would a two dollar surcharge on recording fees with the county auditor a user fee and not a tax. I believe this is a tax and requiring a two-thirds vote and request a ruling thereon."

MOTION

On motion of Senator Eide, further consideration of Engrossed Second Substitute House Bill No. 1359 was deferred and the bill held its place on the third reading calendar.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1432, by House Committee on Appropriations (originally sponsored by Representatives P. Sullivan, Upthegrove, Simpson, Hunter, Moeller, Linville, Schual-Berke and Santos)

Granting service credit to educational staff associates for nonschool employment.

The measure was read the second time.

MOTION

Senator McAuliffe moved that the following amendment by Senators McAuliffe and Prentice be adopted.

On page 2, line 16, strike "five" and insert "two"

Senator McAuliffe spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators McAuliffe and Prentice on page 2, line 16 to Engrossed Second Substitute House Bill No. 1432.

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

MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed Second Substitute House Bill No. 1432 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe and Holmquist 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. 1432 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1432 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 Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist,

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Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1432 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. 1805, by House Committee on Judiciary (originally sponsored by Representatives Morrell, Lantz, Linville, Wallace, Rodne, Conway, Kessler, Hudgins, Hunt, Chase, Hasegawa, VanDeWege, Campbell, Ericks, Green, Simpson and Schual-Berke)

Increasing the homestead exemption amount.

The measure was read the second time.

MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be not adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 6.13.030 and 1999 c 403 s 4 are each amended to read as follows:

A homestead may consist of lands, as described in RCW 6.13.010, regardless of area, but the homestead exemption amount shall not exceed the lesser of (1) the total net value of the lands, manufactured homes, mobile home, improvements, and other personal property, as described in RCW 6.13.010, or (2) the sum of (~~forty~~) one hundred twenty-five thousand dollars in the case of lands, manufactured homes, mobile home, and improvements, or the sum of fifteen thousand dollars in the case of other personal property described in RCW 6.13.010, except where the homestead is subject to execution, attachment, or seizure by or under any legal process whatever to satisfy a judgment in favor of any state for failure to pay that state's income tax on benefits received while a resident of the state of Washington from a pension or other retirement plan, in which event there shall be no dollar limit on the value of the exemption."

On page 1, line 1 of the title, after "amount;" strike the remainder of the title and insert "and amending RCW 6.13.030."

The President declared the question before the Senate to be the motion by Senator Kline to not adopt the committee striking amendment by the Committee on Judiciary to Substitute House Bill No. 1805.

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

MOTION

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

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 6.13.030 and 1999 c 403 s 4 are each amended to read as follows:

A homestead may consist of lands, as described in RCW 6.13.010, regardless of area, but the homestead exemption amount shall not exceed the lesser of (1) the total net value of the lands, manufactured homes, mobile home, improvements, and other personal property, as described in RCW 6.13.010, or (2) the sum of (~~forty~~) one hundred twenty-five thousand

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dollars in the case of lands, manufactured homes, mobile home, and improvements, or the sum of fifteen thousand dollars in the case of other personal property described in RCW 6.13.010, except where the homestead is subject to execution, attachment, or seizure by or under any legal process whatever to satisfy a judgment in favor of any state for failure to pay that state's income tax on benefits received while a resident of the state of Washington from a pension or other retirement plan, in which event there shall be no dollar limit on the value of the exemption.

Sec. 2. RCW 6.13.080 and 2005 c 292 s 4 are each amended to read as follows:

The homestead exemption is not available against an execution or forced sale in satisfaction of judgments obtained:

(1) On debts secured by mechanic's, laborer's, construction, maritime, automobile repair, materialmen's or vendor's liens arising out of and against the particular property claimed as a homestead;

(2) On debts secured (a) by security agreements describing as collateral the property that is claimed as a homestead or (b) by mortgages or deeds of trust on the premises that have been executed and acknowledged by the husband and wife or by any unmarried claimant;

(3) On one spouse's or the community's debts existing at the time of that spouse's bankruptcy filing where (a) bankruptcy is filed by both spouses within a six-month period, other than in a joint case or a case in which their assets are jointly administered, and (b) the other spouse exempts property from property of the estate under the bankruptcy exemption provisions of 11 U.S.C. Sec. 522(d);

(4) On debts arising from a lawful court order or decree or administrative order establishing a child support obligation or obligation to pay spousal maintenance;

(5) On debts owing to the state of Washington for recovery of medical assistance correctly paid on behalf of an individual consistent with 42 U.S.C. Sec. 1396p; ((or))

(6) On debts secured by a condominium's or homeowner association's lien. In order for an association to be exempt under this provision, the association must have provided a homeowner with notice that nonpayment of the association's assessment may result in foreclosure of the association lien and that the homestead protection under this chapter shall not apply. An association has complied with this notice requirement by mailing the notice, by first class mail, to the address of the owner's lot or unit. The notice required in this subsection shall be given within thirty days from the date the association learns of a new owner, but in all cases the notice must be given prior to the initiation of a foreclosure. The phrase "learns of a new owner" in this subsection means actual knowledge of the identity of a homeowner acquiring title after June 9, 1988, and does not require that an association affirmatively ascertain the identity of a homeowner. Failure to give the notice specified in this subsection affects an association's lien only for debts accrued up to the time an association complies with the notice provisions under this subsection; or

(7) On debts owed for taxes collected under chapters 82.08, 82.12, and 82.14 RCW but not remitted to the department of revenue.

Sec. 3. RCW 6.13.090 and 1988 c 231 s 4 are each amended to read as follows:

A judgment against the owner of a homestead shall become a lien on the value of the homestead property in excess of the homestead exemption from the time the judgment creditor records the judgment with the recording officer of the county where the property is located. However, if a judgment of a district court of this state has been transferred to a superior court, the judgment becomes a lien from the time of recording with such recording officer a duly certified abstract of the record of such judgment as it appears in the office of the clerk in which the transfer was originally filed. A department of revenue tax warrant filed pursuant to RCW 82.32.210 shall become a lien on the value of the homestead property in excess of the homestead exemption from the time of filing in superior court."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kline and McCaslin to Substitute House Bill No. 1805.

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

MOTION

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

On page 1, line 1 of the title, after "amount;" strike the remainder of the title and insert "and amending RCW 6.13.030, 6.13.080, and 6.13.090."

MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 1805 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1805 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1805 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 Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Voting nay: Senator Schoesler - 1

SUBSTITUTE HOUSE BILL NO. 1805 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 Brandland, Senator Benton was excused.

MOTION

On motion of Senator Regala, Senator Pridemore was excused.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1906, by House Committee on Appropriations (originally sponsored by Representatives Hunter, Anderson, Wallace, Seaquist, Eddy, P. Sullivan, McDermott, Ormsby, McIntire, Pedersen, Rolfes, Barlow, Goodman, Rodne, O'Brien, Kenney, McDonald, Morrell, Newhouse, Hurst, Skinner, Wood and Bailey)

Improving mathematics and science education.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 28A.305 RCW to read as follows:

MATHEMATICS AND SCIENCE STANDARDS AND CURRICULUM. (1) The activities in this section revise and strengthen the state learning standards that implement the goals of RCW 28A.150.210, known as the essential academic learning requirements, and improve alignment of school district curriculum to the standards.

(2) The state board of education shall be assisted in its work under subsections (3) and (5) of this section by: (a) An expert national consultant in each of mathematics and science retained by the state board; and (b) the mathematics and science advisory panels created under section 2 of this act, as appropriate, which shall provide review and formal comment on proposed recommendations to the superintendent of public instruction and the state board of education on new revised standards and curricula.

(3) By September 30, 2007, the state board of education shall recommend to the superintendent of public instruction revised essential academic learning requirements and grade level expectations in mathematics. The recommendations shall be based on:

(a) Considerations of clarity, rigor, content, depth, coherence from grade to grade, specificity, accessibility, and measurability;

(b) Study of:

(i) Standards used in countries whose students demonstrate high performance on the trends in international mathematics and science study and the programme for international student assessment;

(ii) College readiness standards;

(iii) The national council of teachers of mathematics focal points and the national assessment of educational progress content frameworks; and

(iv) Standards used by three to five other states, including California, and the nation of Singapore; and

(c) Consideration of information presented during public comment periods.

(4) By January 31, 2008, the superintendent of public instruction shall revise the essential academic learning requirements and the grade level expectations for mathematics and present the revised standards to the state board of education and the education committees of the senate and the house of representatives as required by RCW 28A.655.070(4). The superintendent shall adopt the revised essential academic learning requirements and grade level expectations unless otherwise directed by the legislature during the 2008 legislative session.

(5) By June 30, 2008, the state board of education shall recommend to the superintendent of public instruction revised essential academic learning requirements and grade level expectations in science. The recommendations shall be based on:

(a) Considerations of clarity, rigor, content, depth, coherence from grade to grade, specificity, accessibility, and measurability;

(b) Study of standards used by three to five other states and in countries whose students demonstrate high performance on the trends in international mathematics and science study and the programme for international student assessment; and

(c) Consideration of information presented during public comment periods.

(6) By December 1, 2008, the superintendent of public instruction shall revise the essential academic learning requirements and the grade level expectations for science and present the revised standards to the state board of education and the education committees of the senate and the house of representatives as required by RCW 28A.655.070(4). The superintendent shall adopt the revised essential academic

learning requirements and grade level expectations unless otherwise directed by the legislature during the 2009 legislative session.

(7)(a) By May 15, 2008, the superintendent of public instruction shall present to the state board of education recommendations for no more than three basic mathematics curricula each for elementary, middle, and high school grade spans.

(b) By June 30, 2008, the state board of education shall provide official comment and recommendations to the superintendent of public instruction regarding the recommended mathematics curricula. The superintendent of public instruction shall make any changes based on the comment and recommendations from the state board of education and adopt the recommended curricula.

(c) By May 15, 2009, the superintendent of public instruction shall present to the state board of education recommendations for no more than three basic science curricula each for elementary, middle, and high school grade spans.

(d) By June 30, 2009, the state board of education shall provide official comment and recommendations to the superintendent of public instruction regarding the recommended science curricula. The superintendent of public instruction shall make any changes based on the comment and recommendations from the state board of education and adopt the recommended curricula.

(e) In selecting the recommended curricula under this subsection (7), the superintendent of public instruction shall provide information to the mathematics and science advisory panels created under section 2 of this act, as appropriate, and seek the advice of the appropriate panel regarding the curricula that shall be included in the recommendations.

(f) The recommended curricula under this subsection (7) shall align with the revised essential academic learning requirements and grade level expectations. In addition to the recommended basic curricula, appropriate diagnostic and supplemental materials shall be identified as necessary to support each curricula.

(g) Subject to funds appropriated for this purpose and availability of the curricula, at least one of the curricula in each grade span and in each of mathematics and science shall be available to schools and parents online at no cost to the school or parent.

(8) By December 1, 2007, the state board of education shall revise the high school graduation requirements under RCW 28A.230.090 to include a minimum of three credits of mathematics, one of which may be a career and technical course equivalent in mathematics, and prescribe the mathematics content in the three required credits.

(9) Nothing in this section requires a school district to use one of the recommended curricula under subsection (7) of this section. However, the statewide accountability plan adopted by the state board of education under RCW 28A.305.130 shall recommend conditions under which school districts should be required to use one of the recommended curricula. The plan shall also describe the conditions for exception to the curriculum requirement, such as the use of integrated academic and career and technical education curriculum. Required use of the recommended curricula as an intervention strategy must be authorized by the legislature as required by RCW 28A.305.130(4)(c) before implementation.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.305 RCW to read as follows:

ADVISORY PANELS. (1) The state board of education shall appoint a mathematics advisory panel and a science advisory panel to advise the board regarding essential academic learning requirements, grade level expectations, and recommended curricula in mathematics and science and to monitor implementation of these activities. In conducting their work, the panels shall provide objective reviews of materials and information provided by any expert national consultants retained by the board and shall provide a public and transparent forum for consideration of mathematics and science learning standards and curricula.

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(2) Each panel shall include no more than sixteen members with representation from individuals from academia in mathematics and science-related fields, individuals from business and industry in mathematics and science-related fields, mathematics and science educators, parents, and other individuals who could contribute to the work of the panel based on their experiences.

(3) Each member of each panel 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. School districts shall be reimbursed for the cost of substitutes for the mathematics and science educators on the panels as required under RCW 28A.300.035. Members of the panels who are employed by a public institution of higher education shall be provided sufficient time away from their regular duties, without loss of benefits or privileges, to fulfill the responsibilities of being a panel member.

(4) Panel members shall not have conflicts of interest with regard to association with any publisher, distributor, or provider of curriculum, assessment, or test materials and services purchased by or contracted through the office of the superintendent of public instruction, educational service districts, or school districts.

(5) This section expires June 30, 2012.

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

AFTER-SCHOOL MATHEMATICS SUPPORT PROGRAM. (1) The after-school mathematics support program is created to study the effects of intentional, skilled mathematics support included as part of an existing after-school activity program.

(2) The office of the superintendent of public instruction shall provide grants to selected community-based, nonprofit organizations that provide after-school programs and include support for students to learn mathematics.

(3) Grant applicants must demonstrate the capacity to provide assistance in mathematics learning in the following ways:

(a) Identifying the mathematics content and instructional skill of the staff or volunteers assisting students;

(b) Identifying proposed learning strategies to be used, which could include computer-based instructional and skill practice programs and tutoring by adults or other students;

(c) Articulating the plan for connection with school mathematics teachers to coordinate student assistance; and

(d) Articulating the plan for assessing student and program success.

(4) Priority will be given to applicants that propose programs to serve middle school and junior high school students.

(5) The office of the superintendent of public instruction shall evaluate program outcomes and report to the governor and the education committees of the legislature on the outcomes of the grants and make recommendations related to program continuation, program modification, and issues related to program sustainability and possible program expansion. An interim report is due November 1, 2008. The final report is due December 1, 2009.

NEW SECTION, Sec. 4. A new section is added to chapter 28A.415 RCW to read as follows:

MATHEMATICS AND SCIENCE INSTRUCTIONAL COACH PROGRAM. (1) A mathematics and science instructional coach program is authorized, which shall consist of a coach development institute, coaching seminars, coaching activities in schools, and program evaluation.

(2) The office of the superintendent of public instruction shall develop a mathematics and science instructional coach program that includes an initial coach development experience for new coaches provided through an institute setting, coaching support seminars, and additional coach development services. The office shall draw upon the experiences of coaches in federally supported elementary literacy programs and other successful programs, research and policy briefs on adult professional development, and research that specifically addresses the instructional environments of middle, junior high,

and high schools as well as the unique aspects of the fields of mathematics and science.

(3) The office of the superintendent of public instruction shall design the application process and select the program participants.

(4) Schools and school districts participating in the program shall carefully select the individuals to perform the role of mathematics or science instructional coach. Characteristics to be considered for a successful coach include:

(a) Expertise in content area;

(b) Expertise in various instructional methodologies and personalizing learning;

(c) Personal skills that include skilled listening, questioning, trust-building, and problem-solving;

(d) Understanding and appreciation for the differences in adult learners and student learners; and

(e) Capacity for strategic planning and quality program implementation.

(5) The role of the mathematics or science instructional coach is focused on supporting teachers as they apply knowledge, develop skills, polish techniques, and deepen their understanding of content and instructional practices. This work takes a number of forms including: Individualized professional development, department-wide and school-wide professional development, guidance in student data interpretation, and using assessment to guide instruction. Each coach shall be assigned to two schools as part of the program.

(6) Program participants have the following responsibilities:

(a) Mathematics and science coaches shall participate in the coach development institute as well as in coaching support seminars that take place throughout the school year, practice coaching activities as guided by those articulated in the role of the coach in subsection (5) of this section, collect data, and participate in program evaluation activities as requested by the institute pursuant to subsection (7) of this section.

(b) School and district administrators in districts in which the mathematics and science coaches are practicing shall participate in program evaluation activities.

(7)(a) The Washington state institute for public policy shall conduct an evaluation of the mathematics and science instructional coach program in this section. Data shall be collected through various instruments including surveys, program and activity reports, student performance measures, observations, interviews, and other processes. Findings shall include an evaluation of the coach development institute, coaching support seminars, and other coach support activities; recommendations with regard to the characteristics required of the coaches; identification of changes in teacher instruction related to coaching activities; and identification of the satisfaction level with coaching activities as experienced by classroom teachers and administrators.

(b) The institute for public policy shall report its findings to the governor, the office of the superintendent of public instruction, and the education and fiscal committees of the legislature. An interim report is due November 1, 2008. The final report is due December 1, 2009.

Sec. 5. RCW 28A.660.005 and 2001 c 158 s 1 are each amended to read as follows:

(1) The legislature finds and declares:

~~((1))~~ **(a)** Teacher qualifications and effectiveness are the most important influences on student learning in schools~~((-))~~;

~~((2))~~ **(b)** Preparation of individuals to become well-qualified, effective teachers must be high quality~~((-))~~;

~~((3))~~ **(c)** Teachers who complete high-quality alternative route programs with intensive field-based experience, adequate coursework, and strong mentorship do as well or better than teachers who complete traditional preparation programs~~((-))~~;

~~((4))~~ **(d)** High-quality alternative route programs can provide more flexibility and expedience for individuals to transition from their current career to teaching~~((-))~~;

~~((5))~~ **(e)** High-quality alternative route programs can help school districts fill subject matter shortage areas and areas with shortages due to geographic location~~((-))~~;

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~~((f))~~ (f) Regardless of route, all candidates for residency teacher certification must meet the high standards required by the state; and

(g) Teachers need an adequate background in subject matter content if they are to teach it well, and should hold full, appropriate credentials in those subject areas.

(2) The legislature recognizes widespread concerns about the potential for teacher shortages and finds that classified instructional staff in public schools, current certificated staff, and unemployed certificate holders represent a great untapped resource for recruiting ~~((the))~~ more teachers ~~((of the future))~~ in critical shortage areas.

NEW SECTION. Sec. 6. A new section is added to chapter 28A.660 RCW to read as follows:

(1) The pipeline for paraeducators conditional scholarship program is created. Participation is limited to paraeducators without a college degree who have at least three years of classroom experience. It is anticipated that candidates enrolled in this program will complete their associate of arts degree at a community and technical college in two years or less and become eligible for a mathematics, special education, or English as a second language endorsement via route one in the alternative routes to teacher certification program provided in this chapter.

(2) Entry requirements for candidates include district or building validation of qualifications, including three years of successful student interaction and leadership as a classified instructional employee.

NEW SECTION. Sec. 7. A new section is added to chapter 28A.660 RCW to read as follows:

(1) The retooling to teach mathematics and science conditional scholarship program is created. Participation is limited to current K-12 teachers and individuals having an elementary education certificate but who are not employed in positions requiring an elementary education certificate. It is anticipated that candidates enrolled in this program will complete the requirements for a mathematics or science endorsement, or both, in two years or less.

(2) Entry requirements for candidates include:

(a) Current K-12 teachers shall pursue a middle level mathematics or science, or secondary mathematics or science endorsement.

(b) Individuals having an elementary education certificate but who are not employed in positions requiring an elementary education certificate shall pursue an endorsement in middle level mathematics or science only.

Sec. 8. RCW 28A.660.050 and 2004 c 23 s 5 are each amended to read as follows:

The ~~((alternative route))~~ conditional scholarship programs ~~((is))~~ in this chapter are created under the following guidelines:

(1) The programs shall be administered by the higher education coordinating board. In administering the programs, the higher education coordinating board has the following powers and duties:

(a) To adopt necessary rules and develop guidelines to administer the programs;

(b) To collect and manage repayments from participants who do not meet their service obligations; and

(c) To accept grants and donations from public and private sources for the programs.

(2) Requirements for participation in the ~~((alternative route))~~ conditional scholarship programs are as provided in this subsection (2).

(a) The alternative route conditional scholarship program is limited to interns of the partnership grant programs under RCW 28A.660.040. In order to receive conditional scholarship awards, recipients shall:

(i) Be accepted and maintain enrollment in alternative certification routes through the partnership grant program;

(ii) Continue to make satisfactory progress toward completion of the alternative route certification program and receipt of a residency teaching certificate; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed eight thousand dollars, for the cost of

tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route certification program in which the recipient is enrolled. The board may adjust the annual award by the average rate of resident undergraduate tuition and fee increases at the state universities as defined in RCW 28B.10.016.

(b) The pipeline for paraeducators conditional scholarship program is limited to qualified paraeducators as provided by section 6 of this act. In order to receive conditional scholarship awards, recipients shall:

(i) Be accepted and maintain enrollment at a community and technical college for no more than two years and attain an associate of arts degree;

(ii) Continue to make satisfactory progress toward completion of an associate of arts degree. This progress requirement is a condition for eligibility into a route one program of the alternative routes to teacher certification program for a mathematics, special education, or English as a second language endorsement; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed four thousand dollars, for the cost of tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route certification program in which the recipient is enrolled. The board may adjust the annual award by the average rate of tuition and fee increases at the state community and technical colleges.

(c) The retooling to teach mathematics and science conditional scholarship program is limited to current K-12 teachers and individuals having an elementary education certificate but who are not employed in positions requiring an elementary education certificate as provided by section 7 of this act. In order to receive conditional scholarship awards:

(i) Individuals currently employed as teachers shall pursue a middle level mathematics or science, or secondary mathematics or science endorsement; or

(ii) Individuals who are certificated with an elementary education endorsement, but not employed in positions requiring an elementary education certificate, shall pursue an endorsement in middle level mathematics or science, or both; and

(iii) Individuals shall use one of the pathways to endorsement processes to receive a mathematics or science endorsement, or both, which shall include passing a mathematics or science endorsement test, or both tests, plus observation and completing applicable coursework to attain the proper endorsement; and

(iv) Individuals shall receive no more than the annual amount of the scholarship, not to exceed three thousand dollars, for the cost of tuition, test fees, and educational expenses, including books, supplies, and transportation for the endorsement pathway being pursued.

(3) The Washington professional educator standards board shall select ~~((interms))~~ individuals to receive conditional scholarships.

~~((3))~~ In order to receive conditional scholarship awards, recipients shall be accepted and maintain enrollment in alternative certification routes through the partnership grant program, as provided in RCW 28A.660.040. Recipients must continue to make satisfactory progress towards completion of the alternative route certification program and receipt of a residency teaching certificate.)

(4) For the purpose of this chapter, a conditional scholarship is a loan that is forgiven in whole or in part in exchange for service as a certificated teacher employed in a Washington state K-12 public school. The state shall forgive one year of loan obligation for every two years a recipient teaches in a public school. Recipients ~~((that))~~ who fail to continue a course of study leading to residency teacher certification or cease to teach in a public school in the state of Washington in their endorsement area are required to repay the remaining loan principal with interest.

(5) Recipients who fail to fulfill the required teaching obligation are required to repay the remaining loan principal with interest and any other applicable fees. The higher education coordinating board shall adopt rules to define the terms for repayment, including applicable interest rates, fees, and deferrals.

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~~(6) ((To the extent funds are appropriated for this specific purpose, the annual amount of the scholarship is the annual cost of tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route certification program in which the recipient is enrolled, not to exceed eight thousand dollars. The board may adjust the annual award by the average rate of resident undergraduate tuition and fee increases at the state universities as defined in RCW 28B.10.016.~~

~~—(7)) The higher education coordinating board may deposit all appropriations, collections, and any other funds received for the program in this chapter in the ((student loan)) future teachers conditional scholarship account authorized in RCW ((28B.102.060)) 28B.102.080.~~

Sec. 9. RCW 28B.102.080 and 2004 c 58 s 9 are each amended to read as follows:

(1) The future teachers conditional scholarship account is created in the custody of the state treasurer. An appropriation is not required for expenditures of funds from the account. The account is not subject to allotment procedures under chapter 43.88 RCW except for moneys used for program administration.

(2) The board shall deposit in the account all moneys received for the future teachers conditional scholarship and loan repayment program and for conditional loan programs under chapter 28A.660 RCW. The account shall be self-sustaining and consist of funds appropriated by the legislature for the future teachers conditional scholarship and loan repayment program, private contributions to the program, ~~((and))~~ receipts from participant repayments ~~from the future teachers conditional scholarship and loan repayment program, and conditional loan programs established under chapter 28A.660 RCW.~~ Beginning July 1, 2004, the board shall also deposit into the account: (a) All funds from the institution of higher education loan account that are traceable to any conditional scholarship program for teachers or prospective teachers established by the legislature before June 10, 2004; and (b) all amounts repaid by individuals under any such program.

(3) Expenditures from the account may be used solely for conditional loans and loan repayments to participants in the future teachers conditional scholarship and loan repayment program established by this chapter, conditional scholarships for participants in programs established in chapter 28A.660 RCW, and costs associated with program administration by the board.

(4) Disbursements from the account may be made only on the authorization of the board.

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

(1) By September 1, 2008, the state board for community and technical colleges, the council of presidents, the higher education coordinating board, and the office of the superintendent of public instruction, under the leadership of the transition math project and in collaboration with representatives of public two and four-year institutions of higher education, shall jointly revise the Washington mathematics placement test to serve as a common college readiness test for all two and four-year institutions of higher education.

(2) The revised mathematics college readiness test shall be implemented by all public two and four-year institutions of higher education by September 1, 2009. All public two and four-year institutions of higher education must use a common performance standard on the mathematics placement test for purposes of determining college readiness in mathematics. The performance standard must be publicized to all high schools in the state.

NEW SECTION. Sec. 11. A new section is added to chapter 28A.320 RCW to read as follows:

(1) Subject to funding appropriated for this purpose and beginning in the fall of 2009, school districts shall provide all high school students enrolled in the district the option of taking the mathematics college readiness test developed under section 10 of this act once at no cost to the students. Districts shall encourage, but not require, students to take the test in their junior or senior year of high school.

(2) Subject to funding appropriated for this purpose, the office of the superintendent of public instruction shall reimburse

each district for the costs incurred by the district in providing students the opportunity to take the mathematics placement test.

NEW SECTION. Sec. 12. The legislature finds that knowledge, skills, and opportunities in mathematics, science, and technology should be increased for all students in Washington. The legislature intends to foster capacity between and among the educational sectors to enable continuous and sustainable growth of the learning and teaching of mathematics, science, and technologies. The legislature intends to foster high quality mathematics, science, and technology programs to increase the number of students in the kindergarten through twelfth grade pipeline who are prepared and aspire to continue in the areas of mathematics, science, and technology, whether it be at a college, university, or in the workforce.

Sec. 13. RCW 28A.230.130 and 2003 c 49 s 2 are each amended to read as follows:

(1) All public high schools of the state shall provide a program, directly or in cooperation with a community college or another school district, for students whose educational plans include application for entrance to a baccalaureate-granting institution after being granted a high school diploma. The program shall help these students to meet at least the minimum entrance requirements under RCW 28B.10.050.

(2) All public high schools of the state shall provide a program, directly or in cooperation with a community or technical college, a skills center, an apprenticeship committee, or another school district, for students who plan to pursue career or work opportunities other than entrance to a baccalaureate-granting institution after being granted a high school diploma. These programs may:

(a) Help students demonstrate the application of essential academic learning requirements to the world of work, occupation-specific skills, knowledge of more than one career in a chosen pathway, and employability and leadership skills; and

(b) Help students demonstrate the knowledge and skill needed to prepare for industry certification, and/or have the opportunity to articulate to postsecondary education and training programs.

(3) Within funds specifically appropriated therefor, a middle school that receives approval from the office of the superintendent of public instruction to provide a career and technical program directly to students shall receive funding at the same rate as a high school operating a similar program. Additionally, a middle school that provides a hands-on experience in math and science with an integrated curriculum of academic content and career and technical education, and includes a career and technical education exploratory component shall also qualify for the career and technical education funding.

(4) The state board of education, upon request from local school districts, may grant waivers from the requirements to provide the program described in subsections (1) and (2) of this section for reasons relating to school district size and the availability of staff authorized to teach subjects which must be provided. In considering waiver requests related to programs in subsection (2) of this section, the state board of education shall consider the extent to which the school district has offered such programs before the 2003-04 school year.

Sec. 14. RCW 28A.230.130 and 2006 c 263 s 407 are each amended to read as follows:

(1) All public high schools of the state shall provide a program, directly or in cooperation with a community college or another school district, for students whose educational plans include application for entrance to a baccalaureate-granting institution after being granted a high school diploma. The program shall help these students to meet at least the minimum entrance requirements under RCW 28B.10.050.

(2) All public high schools of the state shall provide a program, directly or in cooperation with a community or technical college, a skills center, an apprenticeship committee, or another school district, for students who plan to pursue career or work opportunities other than entrance to a baccalaureate-granting institution after being granted a high school diploma. These programs may:

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(a) Help students demonstrate the application of essential academic learning requirements to the world of work, occupation-specific skills, knowledge of more than one career in a chosen pathway, and employability and leadership skills; and

(b) Help students demonstrate the knowledge and skill needed to prepare for industry certification, and/or have the opportunity to articulate to postsecondary education and training programs.

(3) Within funds specifically appropriated therefor, a middle school that receives approval from the office of the superintendent of public instruction to provide a career and technical program directly to students shall receive funding at the same rate as a high school operating a similar program. Additionally, a middle school that provides a hands-on experience in math and science with an integrated curriculum of academic content and career and technical education, and includes a career and technical education exploratory component shall also qualify for the career and technical education funding.

NEW SECTION. Sec. 15. A new section is added to chapter 28A.300 RCW to read as follows:

The superintendent of public instruction shall provide support for statewide coordination for math, science, and technology, including employing a statewide director for math, science, and technology. The duties of the director shall include, but not be limited to:

(1) Within funds specifically appropriated therefor, obtain a statewide license, or otherwise obtain and disseminate, an interactive, project-based high school and middle school technology curriculum that includes a comprehensive professional development component for teachers and, if possible, counselors, and also includes a systematic program evaluation. The curriculum must be distributed to all school districts, or as many as feasible, by the 2007-08 school year;

(2) Within funds specifically appropriated therefor, supporting a public-private partnership to assist school districts with implementing an ongoing, inquiry-based science program that is based on a research-based model of systemic reform and aligned with the Washington state science grade level expectations;

(3) Within funds specifically appropriated therefor, supporting a public-private partnership to provide enriching opportunities in mathematics, engineering, and science for underrepresented students in grades kindergarten through twelve using exemplary materials and instructional approaches;

(4) In an effort to increase precollege and prework interest in math, science, and technology fields, in collaboration with the community and technical colleges, the four-year institutions of higher education, and the workforce training and education coordinating board, conducting outreach efforts to attract middle and high school students to careers in math, science, and technology and to educate students about the coursework that is necessary to be adequately prepared to succeed in these fields;

(5) Coordinating youth opportunities in math, science, and technology, including facilitating student participation in school clubs, state-level fairs, national competitions, and encouraging partnerships between students and university faculty or industry to facilitate such student participation;

(6) Developing and maintaining public-private partnerships to generate business and industry assistance to accomplish the following:

(a) Increasing student engagement and career awareness, including increasing student participation in the youth opportunities in subsection (5) of this section;

(b) Creation and promotion of student scholarships, internships, and apprenticeships;

(c) Provision of relevant teacher experience and training, including on-the-job professional development opportunities;

(d) Upgrading kindergarten through twelfth grade school equipment and facilities to support high quality math, science, and technology programs;

(7) Assembling a cadre of inspiring speakers employed or experienced in the relevant fields to speak to kindergarten through twelfth grade students to demonstrate the breadth of the opportunities in the relevant fields as well as share the types of

coursework that is necessary for someone to be successful in the relevant field;

(8) Providing technical assistance to schools and school districts, including working with counselors in support of the math, science, and technology programs; and

(9) Reporting annually to the legislature about the actions taken to provide statewide coordination for math, science, and technology.

NEW SECTION. Sec. 16. A new section is added to chapter 28A.655 RCW to read as follows:

(1) Within funds specifically appropriated therefor, by December 1, 2008, the superintendent of public instruction shall develop essential academic learning requirements and grade level expectations for educational technology literacy and technology fluency that identify the knowledge and skills that all public school students need to know and be able to do in the areas of technology and technology literacy. The development process shall include a review of current standards that have been developed or are used by other states and national and international technology associations. To the maximum extent possible, the superintendent shall integrate goal four and the knowledge and skill areas in the other goals in the technology essential academic learning requirements.

(a) As used in this section, "technology literacy" means the ability to responsibly, creatively, and effectively use appropriate technology to communicate; access, collect, manage, integrate, and evaluate information; solve problems and create solutions; build and share knowledge; and improve and enhance learning in all subject areas and experiences.

(b) Technology fluency builds upon technology literacy and is demonstrated when students: Apply technology to real-world experiences; adapt to changing technologies; modify current and create new technologies; and personalize technology to meet personal needs, interests, and learning styles.

(2)(a) Within funds specifically appropriated therefor, the superintendent shall obtain or develop education technology assessments that may be administered in the elementary, middle, and high school grades to assess the essential academic learning requirements for technology. The assessments shall be designed to be classroom or project-based so that they can be embedded in classroom instruction and be administered and scored by school staff throughout the regular school year using consistent scoring criteria and procedures. By the 2010-11 school year, these assessments shall be made available to school districts for the districts' voluntary use. If a school district uses the assessments created under this section, then the school district shall notify the superintendent of public instruction of the use. The superintendent shall report annually to the legislature on the number of school districts that use the assessments each school year.

(b) Beginning December 1, 2010, and annually thereafter, the superintendent of public instruction shall provide a report to the relevant legislative committees regarding the use of the assessments.

NEW SECTION. Sec. 17. A new section is added to chapter 28B.76 RCW to read as follows:

As part of the state needs assessment process conducted by the board in accordance with RCW 28B.76.230, the board shall assess the need for additional baccalaureate degree programs in Washington that specialize in teacher preparation in mathematics, science, and technology. If the board determines that there is a need for additional programs, then the board shall encourage the appropriate institutions of higher education or institutional sectors to create such a program.

NEW SECTION. Sec. 18. Beginning September 1, 2007, through December 1, 2008, the state board of education shall provide a status report at the beginning of each calendar quarter on the activities and progress in completing the requirements under section 1 of this act. The report shall be provided to the governor and the members of the education committees of the senate and the house of representatives.

NEW SECTION. Sec. 19. Captions used in this act are not any part of the law.

NEW SECTION. Sec. 20. Section 13 of this act expires September 1, 2009.

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NEW SECTION. Sec. 21. Section 14 of this act takes effect September 1, 2009.

NEW SECTION. Sec. 22. Sections 1 and 2 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately."

MOTION

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

On page 2, line 14, after "session." Insert the following:

"Prior to implementation, the superintendent shall present the revised math essential academic learning requirements and grade level expectations to the legislative education committees for formal approval through the omnibus appropriations act or by statute or concurrent resolution."

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

Senator McAuliffe spoke against 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 Holmquist on page 2, line 14 to the committee striking amendment to Second Substitute House Bill No. 1906.

The motion by Senator Holmquist failed and the amendment to the committee striking amendment was not adopted by voice vote.

MOTION

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

On page 4, after line 9 insert the following:

"(9) For the graduating classes of 2008 and 2009, students may graduate from high school without earning a certificate of academic achievement or a certificate of individual achievement if they:

(a) Have not successfully met the mathematics, reading, or writing standard on the high school Washington assessment of student learning, an approved objective alternative assessment, or an alternate assessment developed for eligible special education students;

(b) Have met all other state and school district graduation requirements; and

(10) In addition to the requirements under subsection (1) of this section, for the graduating classes of 2008 and 2009, students must:

(a) Continue to annually take high school courses or career and technical courses, designed to increase the individual student's proficiency toward meeting or exceeding the standards assessed on the high school Washington assessment of student learning in the content area in which the student did not meet the standard. The courses may include the course developed by the office of the superintendent of public instruction that presents the mathematics essential academic learning requirements in segments. The student and his or her parents or guardians shall meet with one of the student's classroom instructors for the content area in which the student failed to successfully meet the standard and the student's guidance counselor, advisor, or mentor to determine the appropriate coursework and include the information in the student success plan required under RCW 28A.655.061;

(b) Obtain at least the equivalent of a C grade in each of the mathematics courses taken; and

(c) Continue to take the Washington assessment of student learning or appropriate objective alternative mathematics

assessment until graduation."

Renumber the sections consecutively and correct any internal references accordingly.

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

POINT OF ORDER

Senator Tom: "I believe this amendment is beyond the scope of this bill. The underlying bill deals with improving math and science education. The amendment that is being addressed right now deals with reading and writing and I would like a ruling as to the scope of this amendment."

Senator Clements spoke against the point of order.

MOTION

On motion of Senator Eide, further consideration of the amendment by Senator Clements, on page 4, line 9 to the committee striking amendment to Second Substitute House Bill No. 1906 was deferred.

MOTION

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

On page 6, after line 2, strike all material down and through "2009," on page 7, line 31, and insert the following:

"NEW SECTION. Sec. 1 MATHEMATICS AND SCIENCE INSTRUCTIONAL COACH PROJECT. (1) A mathematics and science instructional coach demonstration project is authorized to develop, pilot, and refine program elements as a first step in the creation of a new instructional staff professional development program. The mathematics and science instructional coach demonstration project coaching program shall consist of a coach development institute, coaching seminars, coaching activities in schools, and program evaluation.

(2) The office of the superintendent of public instruction shall develop a mathematics and science instructional coach program that includes an initial coach development experience for new coaches provided through an institute setting, coaching support seminars, and additional coach development services. The office shall draw upon the experiences of coaches in federally supported elementary literacy programs and other successful programs, research and policy briefs on adult professional development, and research that specifically addresses the instructional environments of middle, junior high, and high schools as well as the unique aspects of the fields of mathematics and science.

(3) The office of the superintendent of public instruction shall design the application process and select the demonstration project participants.

(4) Schools and school districts participating in the demonstration project shall carefully select the individuals to perform the role of mathematics or science instructional coach. Characteristics to be considered for a successful coach include:

(a) Expertise in content area;

(b) Expertise in various instructional methodologies and personalizing learning;

(c) Personal skills that include skilled listening, questioning, trust-building, and problem-solving; (d) Understanding and appreciation for the differences in adult learners and student learners; and

(e) Capacity for strategic planning and quality program implementation.

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(5) The role of the mathematics or science instructional coach is focused on supporting teachers as they apply knowledge, develop skills, polish techniques, and deepen their understanding of content and instructional practices. This work takes a number of forms including: Individualized professional development, department-wide and school-wide professional development, guidance in student data interpretation, and using assessment to guide instruction. Each coach shall be assigned to two schools as part of this project.

(6) Project participants have the following responsibilities:

(a) Mathematics and science coaches shall participate in the coach development institute as well as in coaching support seminars that take place throughout the school year, practice coaching activities as guided by those articulated in the role of the coach in subsection (5) of this section, collect data, and participate in program evaluation activities as requested by the institute pursuant to subsection (7) of this section.

(b) School and district administrators in districts in which the mathematics and science coaches are practicing shall participate in program evaluation activities.

(7)(a) The Washington state institute for public policy shall conduct an evaluation of the mathematics and science instructional coach demonstration project in this section. Data shall be collected through various instruments including surveys, program and activity reports, student performance measures, observations, interviews, and other processes. Findings shall include an evaluation of the coach development institute, coaching support seminars, and other coach support activities; recommendations with regard to changes in the characteristics required of the coaches; identification of changes in teacher instruction related to coaching activities; and identification of the satisfaction level with coaching activities as experienced by classroom teachers and administrators.

(b) The institute for public policy shall report its findings to the governor, the office of the superintendent of public instruction, and the education and fiscal committees of the legislature. An interim report is due November 1, 2008. The final report is due December 1, 2009.

(8) This section expires September 1, 2010."

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

Senators Clements and Holmquist spoke in favor of adoption of the amendment to the committee striking amendment.

Senators McAuliffe and Tom spoke against 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 Clements on page 6, after line 2 to the committee striking amendment to Second Substitute House Bill No. 1906.

The motion by Senator Clements failed and the amendment to the committee striking amendment was not adopted by voice vote.

MOTION

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

On page 7, line 15, after "The" strike "Washington state institute for public policy" and insert "Washington state university social and economic sciences research center"

On page 7, line 27, after "The" strike "institute for public policy" and insert "Washington state university social and economic sciences research center"

Correct any internal references accordingly.

Senator McAuliffe 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 McAuliffe on page 7, line 15 to the committee striking amendment to Second Substitute House Bill No. 1906.

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

MOTION

Senator Holmquist moved that the following amendment by Senators Holmquist and Clements to the committee striking amendment be adopted.

On page 16, beginning on line 16 of the amendment, after "including" strike all material through "to" on line 18

On page 16, line 19 of the amendment, after "therefor," strike "obtain" and insert "obtaining"

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

Senator McAuliffe spoke against 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 Senators Holmquist and Clements on page 16, line 16 to the committee striking amendment to Second Substitute House Bill No. 1906.

The motion by Senator Holmquist failed and the amendment to the committee striking amendment was not adopted by voice vote.

MOTION

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

Beginning on page 17, line 34 of the amendment, strike all of section 16

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

On page 20, beginning on line 7 of the title amendment, after "28A.320 RCW;" strike "adding a new section to chapter 28A.655 RCW;"

Senators Holmquist and Clements spoke in favor of adoption of the amendment to the committee striking amendment.

Senators McAuliffe and Tom spoke against 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 Holmquist on page 17, line 34 to the committee striking amendment to Second Substitute House Bill No. 1906.

The motion by Senator Holmquist failed and the amendment to the committee striking amendment was not adopted by voice vote.

RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Tom that Amendment 442 is beyond the scope and object of Second Substitute House Bill No.1906, the President finds and rules as follows:

House Bill 1906 as it was introduced in the Senate is a measure which relates to establishing math and science standards in school curricula. Amendment 442 does not relate

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to such curricula, but instead would extend an exception for Certificates of Academic Achievement for graduation in 2008 and 2009. This is clearly outside of the subject matter of the original bill.

The President therefore finds that the amendment does change the scope and object of the bill, and the point of order is well-taken."

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. 1906.

The motion by Senator McAuliffe 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 "education;" strike the remainder of the title and insert "amending RCW 28A.660.005, 28A.660.050, 28B.102.080, 28A.230.130, and 28A.230.130; adding new sections to chapter 28A.305 RCW; adding new sections to chapter 28A.300 RCW; adding a new section to chapter 28A.415 RCW; adding new sections to chapter 28A.660 RCW; adding a new section to chapter 28B.10 RCW; adding a new section to chapter 28A.320 RCW; adding a new section to chapter 28A.655 RCW; adding a new section to chapter 28B.76 RCW; creating new sections; providing an effective date; providing expiration dates; and declaring an emergency."

MOTION

On motion of Senator McAuliffe, the rules were suspended, Second Substitute House Bill No. 1906 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe, Pflug and Tom spoke in favor of passage of the bill.

Senators Holmquist, Swecker, Jacobsen, Clements and Hargrove spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1906 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1906 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 37; Nays, 12; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hobbs, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Shin, Spanel, Tom, Weinstein and Zarelli - 37

Voting nay: Senators Clements, Hargrove, Hewitt, Holmquist, Honeyford, Jacobsen, McCaslin, Morton, Schoesler, Sheldon, Stevens and Swecker - 12

SECOND SUBSTITUTE HOUSE BILL NO. 1906 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 advanced to the eighth order of business.

MOTION

Senator Morton moved adoption of the following resolution:

SENATE RESOLUTION 8670

By Senator Morton

WHEREAS, Dr. Ed Gray, a Colville physician, was awarded the prestigious American Medical Association's Nathan Davis Award in March 2006 for outstanding public service in the advancement of public health; and

WHEREAS, Dr. Gray, a 1946 Colville High School graduate, was a founding physician of Colville's Northeast Washington Medical Group in 1979; and

WHEREAS, The Northeast Washington Medical Group is the second largest clinic in eastern Washington, with all the major specialties, and serves as a teaching institution for residents in the Rural Residency Training Track; and

WHEREAS, Dr. Gray served as Colville's public health officer for ten dollars per month in the 1960s; and

WHEREAS, Dr. Gray served as the Stevens County public health officer and in 1975 helped form the Tri-County Health District serving Stevens, Ferry, and Pend Orielle counties with all the counties having an equal role in governance and providing more resources than any of the counties could afford on their own; and

WHEREAS, Dr. Gray served as president of the Washington State Medical Association in 1985; and

WHEREAS, Dr. Gray retired from his regular practice in 1994, but has remained active in the Tri-County Health District; and

WHEREAS, Dr. Gray serves on the Colville City Council; and

WHEREAS, Dr. Gray has lived by a philosophy of giving and caring;

NOW, THEREFORE, BE IT RESOLVED, That the members of the Washington State Senate recognize and congratulate Dr. Gray for his lifetime achievements that earned him the Nathan David Award, and thank him for his selfless dedication to the advancement of rural health care in Washington state; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted to Dr. Ed Gray, Colville Mayor Richard Nichols, the Ferry County Board of Commissioners, the Stevens County Board of Commissioners, the Pend Orielle County Board of Commissioners, the Tri-County Health District, and the Washington State Medical Association.

Senator Morton spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8670.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Dr. Edmund Gray and wife Jane and Secretary of Health, Mary Selecky, who were seated at the rostrum.

With permission of the Senate, business was suspended to allow Dr. Edmund Gray to address the Senate.

REMARKS BY DR. EDMUND GRAY

Dr. Edmund Gray: "What you see before you is the product bipartisanship. My mother was an Irish Catholic Latin teaching Democrat and my father was a Scotch continuing Presbyterian Physician Republican. We sat for hours listening or, rather, 'watching' radio in the days before television. We got to exchange a lot of bipartisanship. My mother usually voted with her husband no matter if she disagreed but I'm sure she took

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him the other way in voting for Harry Truman. I want to acknowledge and thank Senator Morton for the opportunity to be here and of course, Jane, my wife does that too. I should say that she added a Swedish element to that discussion and Mary Selecky, of course, with whom I worked for twenty years. I'm not sure what to call her, I think it's balkanized, Slavic or something like that. Our family is extremely proud and happy and some what over awed to accept this resolution. Thank you again."

MOTION

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

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1891, by House Committee on Finance (originally sponsored by Representatives Linville, Orcutt, Quall, Cody, Hinkle, Hurst and Dunn)

Providing a business and occupation tax deduction for the sale of certain prescription drugs.

The measure was read the second time.

MOTION

Senator Prentice 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 82.04 RCW to read as follows:

In computing tax there may be deducted from the measure of tax imposed by RCW 82.04.290(2) amounts received by physicians or clinics for drugs for infusion or injection by licensed physicians or their agents for human use pursuant to a prescription, but only if the amounts: (1) Are separately stated on invoices or other billing statements; (2) do not exceed the then current federal rate; and (3) are covered or required under a health care service program subsidized by the federal or state government. The federal rate means the rate at or below which the federal government or its agents reimburse providers for prescription drugs administered to patients as provided for in the medicare, part B, drugs average sales price information resource as published by the United States department of health and human services, or any successor index thereto.

NEW SECTION. Sec. 2. This act takes effect October 1, 2007."

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. 1891.

The motion by Senator Prentice 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 "prescription;" strike the remainder of the title and insert "adding a new section to chapter 82.04 RCW; and providing an effective date."

MOTION

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On motion of Senator Prentice, the rules were suspended, Substitute House Bill No. 1891 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

MOTION

On motion of Senator Brandland, Senator Carrell was excused.

MOTION

On motion of Senator Regala, Senators Brown, Jacobsen and McAuliffe were excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1891 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1891 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 Benton, Berkey, Brandland, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 45

Excused: Senators Brown, Carrell, Jacobsen and McAuliffe - 4

SUBSTITUTE HOUSE BILL NO. 1891 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. 1599, by Representatives Hunt, Williams, Conway, Ormsby, McDermott and Wood

Allowing raffles by state employees.

The measure was read the second time.

MOTION

Senator Fraser moved that the following striking amendment by Senators Fraser, Clements and Kohl-Welles be adopted:

Strike everything after the enacting clause and insert the following:

Sec. 1. RCW 9.46.0209 and 2000 c 233 s 1 are each amended to read as follows:

(1)(a) "Bona fide charitable or nonprofit organization," as used in this chapter, means: ((+))

(i) Any organization duly existing under the provisions of chapter 24.12, 24.20, or 24.28 RCW, any agricultural fair authorized under the provisions of chapters 15.76 or 36.37 RCW, or any nonprofit corporation duly existing under the provisions of chapter 24.03 RCW for charitable, benevolent, eleemosynary, educational, civic, patriotic, political, social, fraternal, athletic or agricultural purposes only, or any nonprofit

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organization, whether incorporated or otherwise, when found by the commission to be organized and operating for one or more of the aforesaid purposes only, all of which in the opinion of the commission have been organized and are operated primarily for purposes other than the operation of gambling activities authorized under this chapter; or ~~((2))~~

(ii) Any corporation which has been incorporated under Title 36 U.S.C. and whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures for preventing the same. ((Such))

(b) An organization defined under (a) of this subsection must:

(i) Have been organized and continuously operating for at least twelve calendar months immediately preceding making application for any license to operate a gambling activity, or the operation of any gambling activity authorized by this chapter for which no license is required(~~—It must~~);

(ii) Have not less than fifteen bona fide active members each with the right to an equal vote in the election of the officers, or board members, if any, who determine the policies of the organization in order to receive a gambling license(~~—An organization must~~); and

(iii) Demonstrate to the commission that it has made significant progress toward the accomplishment of the purposes of the organization during the twelve consecutive month period preceding the date of application for a license or license renewal. The fact that contributions to an organization do not qualify for charitable contribution deduction purposes or that the organization is not otherwise exempt from payment of federal income taxes pursuant to the internal revenue code of 1954, as amended, shall constitute prima facie evidence that the organization is not a bona fide charitable or nonprofit organization for the purposes of this section.

(c) Any person, association or organization which pays its employees, including members, compensation other than is reasonable therefor under the local prevailing wage scale shall be deemed paying compensation based in part or whole upon receipts relating to gambling activities authorized under this chapter and shall not be a bona fide charitable or nonprofit organization for the purposes of this chapter.

(2) For the purposes of RCW 9.46.0315 and 9.46.110, a bona fide nonprofit organization also includes:

(a) A credit union organized and operating under state or federal law. All revenue less prizes and expenses received from raffles conducted by credit unions must be devoted to purposes authorized under this section for charitable and nonprofit organizations; and

(b) A group of executive branch state employees that:

(i) Has requested and received revocable approval from the agency's chief executive official, or such official's designee, to conduct one or more raffles in compliance with this section;

(ii) Conducts a raffle solely to raise funds for either the state combined fund drive, created under RCW 41.04.033; an entity approved to receive funds from the state combined fund drive; or a charitable or benevolent entity, including but not limited to a person or family in need, as determined by a majority vote of the approved group of employees. No person or other entity may receive compensation in any form from the group for services rendered in support of this purpose;

(iii) Promptly provides such information about the group's receipts, expenditures, and other activities as the agency's chief executive official or designee may periodically require, and otherwise complies with this section and RCW 9.46.0315; and

(iv) Limits the participation in the raffle such that raffle tickets are sold only to, and winners are determined only from, the employees of the agency.

NEW SECTION. Sec. 2. A new section is added to chapter 42.52 RCW to read as follows:

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(1) When soliciting gifts, grants, or donations solely to support the charitable activities of executive branch state employees conducted pursuant to RCW 9.46.0209, the executive branch state officers and executive branch state employees are presumed not to be in violation of the solicitation and receipt of gift provisions in RCW 42.52.140. However, the gifts, grants, or donations must only be solicited from state employees or businesses and organizations that have no business dealings with the soliciting employee's agency. For the purposes of this subsection, "business dealings" includes being subject to regulation by the agency, having a contractual relationship with the agency, and purchasing goods or services from the agency.

(2) For purposes of this section, activities are deemed to be charitable if the activities are devoted to the purposes authorized under RCW 9.46.0209 for charitable and nonprofit organizations listed in that section, or are in support of the activities of those charitable or nonprofit organizations."

Senators Fraser and Clements 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 Fraser, Clements and Kohl-Welles to House Bill No. 1599.

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

MOTION

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

On page 1, line 1 of the title, after "employees;" strike the remainder of the title and insert "amending RCW 9.46.0209; and adding a new section to chapter 42.52 RCW."

MOTION

On motion of Senator Fraser, the rules were suspended, House Bill No. 1599 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 House Bill No. 1599 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1599 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 3; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 44

Voting nay: Senators Hewitt, Honeyford and Swecker - 3

Excused: Senators Jacobsen and McAuliffe - 2

HOUSE BILL NO. 1599 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

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ENGROSSED SUBSTITUTE HOUSE BILL NO. 2016, by House Committee on Judiciary (originally sponsored by Representatives Springer, Lantz, Wallace, Seaquist, P. Sullivan, Moeller, Lovick, Takko, Kessler, Morrell, Rolfes, Ericks, VanDeWege, Goodman, Simpson, Linville and Ormsby)

Changing provisions pertaining to eminent domain.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 8.25 RCW to read as follows:

(1) Whenever condemnation is sought, a condemnor shall document its consideration of any reasonable alternative to condemnation or any alternative to the nature and extent of condemnation that is suggested by a property owner in accordance with this section. The documentation shall include the condemnor's reasons for rejecting any suggested alternative.

(2) Not less than ninety days before taking final action, as defined in RCW 8.25.---(4) (section 1(4) of Substitute House Bill No. 1458), the condemnor shall provide notice to the same property owners and in the same manner as provided under RCW 8.25.---(2) (section 1(2) of Substitute House Bill No. 1458). The notice need not contain information about the time and location of the final action, but shall indicate the date of the final action. The notice shall inform property owners that their property may be the subject of condemnation and that any reasonable alternative to condemnation suggested by an owner in writing and received by the condemnor not less than sixty days before the date indicated for the final action will be considered by the condemnor.

(3) Not less than thirty days before the date indicated for final action, the condemnor shall respond to a property owner who has suggested an alternative under subsection (2) of this section. The condemnor shall respond by either: (a) Providing the property owner with written documentation of the condemnor's consideration of and reasons for rejecting the alternative; or (b) notifying the property owner that more time is needed for consideration of the alternative. The condemnor may extend the time to respond to a suggested alternative and postpone the indicated date of the final action, so long as the condemnor provides the required documentation not less than thirty days before final action is taken.

(4) Nothing in this section relieves a condemnor of the obligation to provide the notice required under RCW 8.25.--- (section 1 of Substitute House Bill No. 1458).

Sec. 2. RCW 8.25.020 and 1999 c 52 s 1 are each amended to read as follows:

There shall be paid by the condemnor in respect of each parcel of real property acquired by eminent domain or by consent under threat thereof, in addition to the fair market value of the property, a sum equal to the various expenditures actually and reasonably incurred by those with an interest or interests in said parcel in the process of evaluating and responding to the condemnor's offer to buy the same, but not to exceed ((a total of seven hundred fifty dollars)) the lesser of: (1) Five thousand dollars; or (2) One percent of the value of the parcel as determined by the condemnor's fair market value appraisal or seven hundred fifty dollars, whichever is greater. Such actual and reasonable expenditures may include, but are not limited to, reasonable fees of appraisers, attorneys, architects, engineers, or other persons reasonably retained by the condemnee to evaluate the financial adequacy of the offer. Financial adequacy shall be narrowly construed and shall not include challenging the legality of the condemnation process or the legality of the ongoing

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project for which the condemnation is sought. In the case of multiple interests in a parcel, the division of such sum shall be determined by the court or by agreement of the parties.

NEW SECTION. Sec. 3. A new section is added to chapter 8.25 RCW to read as follows:

(1) Whenever real property or a portion of real property is to be sold or otherwise disposed of within seven years after the date the property was transferred to an acquiring entity through or under the threat of condemnation, the former owner shall have a right of first refusal to purchase the property in accordance with this section. "Former owner" means the person or persons from whom the acquiring entity acquired title or that person's or those persons' successors or assigns to the right of first refusal.

(a) At least ninety days prior to the date on which the acquiring entity will announce a public process for property disposition or, if the sale is to be negotiated, at least ninety days prior to the date on which a purchase and sale agreement or similar document is to be signed, the acquiring entity shall: (i) Publish in a legal newspaper of general circulation in the area where the property to be sold is located, a notice indicating its determination to sell the property, identifying the property, and describing generally any easements, other restrictions, or reserved rights the acquiring entity intends to retain upon sale; and (ii) mail the same notice to the former owner of the property at the former owner's last known address or to a forwarding address if that owner has provided the acquiring entity with a forwarding address.

(b) If the former owner notifies the acquiring entity in writing within thirty days of the date of notice provided under (a) of this subsection that the former owner intends to exercise the right of first refusal granted by this section, the acquiring entity shall, unless it already has a completed current appraisal for the property, arrange for an appraisal to determine the fair market value of the property or portion of property subject to the right. In addition, the acquiring entity shall arrange for an alternative appraisal equal to the compensation received by the former owner from the acquiring entity when the property or portion of the property was condemned or sold under threat of condemnation, with interest accrued at the market rate, and with that amount adjusted to reflect the value of any physical changes made by the acquiring entity, such as improvements or removal of structures.

(c) If the former owner does not provide timely written notice to the acquiring entity of the intent to exercise a right of first refusal, that right is extinguished and the acquiring entity is relieved of any further obligation under this section.

(d) Within thirty days of receipt of the former owner's notice of intent to exercise the right of first refusal or following the acquiring entity's receipt of the appraisals, the acquiring entity shall provide the former owner with a written copy of the two appraisals. All costs of appraisal shall be paid by the acquiring entity.

(e) In the event that the acquiring entity and the former owner cannot agree on the amount of compensation paid for a portion of the property under (b) of this subsection, the acquiring entity and the former owner shall each arrange for an independent appraisal of the just compensation allocation to the portion of the property to be sold. If the acquiring entity and the former owner cannot then agree on the amount, either party may initiate a lawsuit to determine the amount, or they may agree to binding arbitration in which case the appraisals shall be submitted to a third, independent appraiser. The third appraiser shall sit as an arbitrator and determine the amount of compensation paid under (b) of this subsection. The arbitrator's decision shall be final and binding. The acquiring entity and former owner shall bear their own costs and fees, and pay equally the costs and fees of the arbitrator.

(f) Within thirty days of the date the acquiring entity provides a written copy of the appraisals to the former owner under (d) of this subsection, or within thirty days of the

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completion of any proceedings under (e) of this subsection, whichever is later, the former owner may exercise the right of first refusal granted by this section by delivering to the acquiring entity earnest money or a deposit in a form determined by the acquiring entity in an amount equal to five percent of the appraised fair market value, together with a written promise to pay, within thirty days, the following:

(i) The lesser of: (A) The appraised fair market value less the earnest money or deposit; or (B) an amount equal to the compensation received from the acquiring entity when the property or portion of property was condemned or sold under threat of condemnation, with interest accrued at the market rate, and with the amount adjusted to reflect the value of any physical changes made by the acquiring entity to the property, such as improvements or removal of structures, less the earnest money or deposit; and

(ii) All required fees and costs otherwise required for the transfer of real property.

(g) Upon receipt of the full payment required in (f) of this subsection, the acquiring entity shall transfer title to the former owner, subject to any easements, other restrictions, or reserved rights retained by the acquiring entity. If the former owner fails to complete the sale, the earnest money or deposit is forfeited to the acquiring entity, the former owner's right of first refusal is extinguished, and the acquiring entity is relieved of any further obligation under this section.

(2) The acquiring entity may reject a notice of intent under subsection (1)(b) of this section received from a person claiming to be a successor or assignee that is not accompanied by evidence sufficient to demonstrate that the person is the successor or assignee of the person from whom the acquiring entity acquired the right of first refusal.

(3) The obligations imposed on an acquiring entity in this section are in addition to any provided by law for the surplusing or sale of public property to private parties. Nothing in this section precludes an acquiring entity from retaining the property and determining not to surplus and sell the property.

(4) This section does not apply to the sale or disposal of property to a public entity for a public purpose. This section does not apply to the sale or disposal of property that implements and is consistent with a community renewal plan approved pursuant to RCW 35.81.060.

(5) For the purposes of this section, "market rate" means two percentage points above the equivalent coupon issue yield, as published by the board of governors of the federal reserve system, of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted during the calendar month immediately following the date when the acquiring entity provided compensation to the former owner at the time the property was condemned or sold under threat of condemnation.

Sec. 4. RCW 28A.335.120 and 2006 c 263 s 913 are each amended to read as follows:

(1) The board of directors of any school district of this state may:

(a) Sell for cash, at public or private sale, and convey by deed all interest of the district in or to any of the real property of the district which is no longer required for school purposes; and

(b) Purchase real property for the purpose of locating thereon and affixing thereto any house or houses and appurtenant buildings removed from school sites owned by the district and sell for cash, at public or private sale, and convey by deed all interest of the district in or to such acquired and improved real property.

(2) When the board of directors of any school district proposes a sale of school district real property pursuant to this section and the value of the property exceeds seventy thousand dollars, the board shall publish a notice of its intention to sell the property. The notice shall be published at least once each week during two consecutive weeks in a legal newspaper with a general circulation in the area in which the school district is

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located. The notice shall describe the property to be sold and designate the place where and the day and hour when a hearing will be held. The board shall hold a public hearing upon the proposal to dispose of the school district property at the place and the day and hour fixed in the notice and admit evidence offered for and against the propriety and advisability of the proposed sale.

(3) The board of directors of any school district desiring to sell surplus real property shall publish a notice in a newspaper of general circulation in the school district. School districts shall not sell the property for at least forty-five days following the publication of the newspaper notice.

(4) Private schools shall have the same rights as any other person or entity to submit bids for the purchase of surplus real property and to have such bids considered along with all other bids.

(5) Any sale of school district real property authorized pursuant to this section shall be preceded by a market value appraisal by a professionally designated real estate appraiser as defined in RCW 74.46.020 or a general real estate appraiser certified under chapter 18.140 RCW selected by the board of directors and no sale shall take place if the sale price would be less than ninety percent of the appraisal made by the real estate appraiser: PROVIDED, That if the property has been on the market for one year or more the property may be reappraised and sold for not less than seventy-five percent of the reappraised value with the unanimous consent of the board.

(6) If in the judgment of the board of directors of any district the sale of real property of the district not needed for school purposes would be facilitated and greater value realized through use of the services of licensed real estate brokers, a contract for such services may be negotiated and concluded: PROVIDED, That the use of a licensed real estate broker will not eliminate the obligation of the board of directors to provide the notice described in this section: PROVIDED FURTHER, That the fee or commissions charged for any broker services shall not exceed seven percent of the resulting sale value for a single parcel: PROVIDED FURTHER, That any professionally designated real estate appraiser as defined in RCW 74.46.020 or a general real estate appraiser certified under chapter 18.140 RCW selected by the board to appraise the market value of a parcel of property to be sold may not be a party to any contract with the school district to sell such parcel of property for a period of three years after the appraisal.

(7) If in the judgment of the board of directors of any district the sale of real property of the district not needed for school purposes would be facilitated and greater value realized through sale on contract terms, a real estate sales contract may be executed between the district and buyer.

(8) This section is subject to and operates only to the extent its application is not inconsistent with the operation of section 3 of this act with respect to property acquired through or under the threat of condemnation.

Sec. 5. RCW 35.58.340 and 1993 c 240 s 9 are each amended to read as follows:

Except as otherwise provided herein, a metropolitan municipal corporation may sell, or otherwise dispose of any real or personal property acquired in connection with any authorized metropolitan function and which is no longer required for the purposes of the metropolitan municipal corporation in the same manner as provided for cities. When the metropolitan council determines that a metropolitan facility or any part thereof which has been acquired from a component city or county without compensation is no longer required for metropolitan purposes, but is required as a local facility by the city or county from which it was acquired, the metropolitan council shall by resolution transfer it to such city or county. This section is subject to and operates only to the extent its application is not inconsistent with the operation of section 3 of this act with respect to property acquired through or under the threat of condemnation.

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Sec. 6. RCW 35.80A.030 and 1989 c 271 s 241 are each amended to read as follows:

A county, city, or town may dispose of real property acquired pursuant to this section to private persons only under such reasonable, competitive procedures as it shall prescribe. The county, city, or town may accept such proposals as it deems to be in the public interest and in furtherance of the purposes of this chapter. Thereafter, the county, city, or town may execute and deliver contracts, deeds, leases, and other instruments of transfer. This section is subject to and operates only to the extent its application is not inconsistent with the operation of section 3 of this act with respect to property acquired through or under the threat of condemnation.

Sec. 7. RCW 35.94.040 and 1973 1st ex.s. c 95 s 1 are each amended to read as follows:

Whenever a city shall determine, by resolution of its legislative authority, that any lands, property, or equipment originally acquired for public utility purposes is surplus to the city's needs and is not required for providing continued public utility service, then such legislative authority by resolution and after a public hearing may cause such lands, property, or equipment to be leased, sold, or conveyed. Such resolution shall state the fair market value or the rent or consideration to be paid and such other terms and conditions for such disposition as the legislative authority deems to be in the best public interest.

The provisions of RCW 35.94.020 and 35.94.030 shall not apply to dispositions authorized by this section.

This section is subject to and operates only to the extent its application is not inconsistent with the operation of section 3 of this act with respect to property acquired through or under the threat of condemnation.

Sec. 8. RCW 36.68.010 and 1963 c 4 s 36.68.010 are each amended to read as follows:

Counties may establish park and playground systems for public recreational purposes and for such purposes shall have the power to acquire lands, buildings and other facilities by gift, purchase, lease, devise, bequest and condemnation. A county may lease or sell any park property, buildings or facilities surplus to its needs, or no longer suitable for park purposes: PROVIDED, That such park property shall be subject to the requirements and provisions of notice, hearing, bid or intergovernmental transfer as provided in chapter 36.34 RCW: PROVIDED FURTHER, That nothing in this section shall be construed as authorizing any county to sell any property which such county acquired by condemnation for park or playground or other public recreational purposes on or after January 1, 1960, until held for five years or more after such acquisition: PROVIDED FURTHER, That funds acquired from the lease or sale of any park property, buildings or facilities shall be placed in the park and recreation fund to be used for capital purposes. This section is subject to and operates only to the extent its application is not inconsistent with the operation of section 3 of this act with respect to property acquired through or under the threat of condemnation.

NEW SECTION. Sec. 9. A new section is added to chapter 39.33 RCW to read as follows:

This chapter is subject to and operates only to the extent its application is not inconsistent with the operation of section 3 of this act with respect to property acquired through or under the threat of condemnation.

Sec. 10. RCW 43.43.115 and 1993 c 438 s 1 are each amended to read as follows:

Whenever real property owned by the state of Washington and under the jurisdiction of the Washington state patrol is no longer required, it may be sold at fair market value. All proceeds received from the sale of real property, less any real estate broker commissions, shall be deposited into the state patrol highway account: PROVIDED, That if accounts or funds other than the state patrol highway account have contributed to the purchase or improvement of the real property, the office of financial management shall determine the proportional equity of

each account or fund in the property and improvements, and shall direct the proceeds to be deposited proportionally therein. This section is subject to and operates only to the extent its application is not inconsistent with the operation of section 3 of this act with respect to property acquired through or under the threat of condemnation.

Sec. 11. RCW 43.82.010 and 2004 c 277 s 906 are each amended to read as follows:

(1) The director of general administration, on behalf of the agency involved, shall purchase, lease, lease purchase, rent, or otherwise acquire all real estate, improved or unimproved, as may be required by elected state officials, institutions, departments, commissions, boards, and other state agencies, or federal agencies where joint state and federal activities are undertaken and may grant easements and transfer, exchange, sell, lease, or sublease all or part of any surplus real estate for those state agencies which do not otherwise have the specific authority to dispose of real estate. This section does not transfer financial liability for the acquired property to the department of general administration.

(2) Except for real estate occupied by federal agencies, the director shall determine the location, size, and design of any real estate or improvements thereon acquired or held pursuant to subsection (1) of this section. Facilities acquired or held pursuant to this chapter, and any improvements thereon, shall conform to standards adopted by the director and approved by the office of financial management governing facility efficiency unless a specific exemption from such standards is provided by the director of general administration. The director of general administration shall report to the office of financial management annually on any exemptions granted pursuant to this subsection.

(3) The director of general administration may fix the terms and conditions of each lease entered into under this chapter, except that no lease shall extend greater than twenty years in duration. The director of general administration may enter into a long-term lease greater than ten years in duration upon a determination by the director of the office of financial management that the long-term lease provides a more favorable rate than would otherwise be available, it appears to a substantial certainty that the facility is necessary for use by the state for the full length of the lease term, and the facility meets the standards adopted pursuant to subsection (2) of this section. The director of general administration may enter into a long-term lease greater than ten years in duration if an analysis shows that the life-cycle cost of leasing the facility is less than the life-cycle cost of purchasing or constructing a facility in lieu of leasing the facility. For the 2003-05 biennium, any lease entered into after April 1, 2004, with a term of ten years or less shall not contain a nonappropriation clause.

(4) Except as permitted under chapter 39.94 RCW, no lease for or on behalf of any state agency may be used or referred to as collateral or security for the payment of securities offered for sale through a public offering. Except as permitted under chapter 39.94 RCW, no lease for or on behalf of any state agency may be used or referred to as collateral or security for the payment of securities offered for sale through a private placement without the prior written approval of the state treasurer. However, this limitation shall not prevent a lessor from assigning or encumbering its interest in a lease as security for the repayment of a promissory note provided that the transaction would otherwise be an exempt transaction under RCW 21.20.320. The state treasurer shall adopt rules that establish the criteria under which any such approval may be granted. In establishing such criteria the state treasurer shall give primary consideration to the protection of the state's credit rating and the integrity of the state's debt management program. If it appears to the state treasurer that any lease has been used or referred to in violation of this subsection or rules adopted under this subsection, then he or she may recommend that the governor cause such lease to be terminated. The department of general administration shall promptly notify the state treasurer

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whenever it may appear to the department that any lease has been used or referred to in violation of this subsection or rules adopted under this subsection.

(5) It is the policy of the state to encourage the colocation and consolidation of state services into single or adjacent facilities, whenever appropriate, to improve public service delivery, minimize duplication of facilities, increase efficiency of operations, and promote sound growth management planning.

(6) The director of general administration shall provide coordinated long-range planning services to identify and evaluate opportunities for colocating and consolidating state facilities. Upon the renewal of any lease, the inception of a new lease, or the purchase of a facility, the director of general administration shall determine whether an opportunity exists for colocating the agency or agencies in a single facility with other agencies located in the same geographic area. If a colocation opportunity exists, the director of general administration shall consult with the affected state agencies and the office of financial management to evaluate the impact colocation would have on the cost and delivery of agency programs, including whether program delivery would be enhanced due to the centralization of services. The director of general administration, in consultation with the office of financial management, shall develop procedures for implementing colocation and consolidation of state facilities.

(7) The director of general administration is authorized to purchase, lease, rent, or otherwise acquire improved or unimproved real estate as owner or lessee and to lease or sublet all or a part of such real estate to state or federal agencies. The director of general administration shall charge each using agency its proportionate rental which shall include an amount sufficient to pay all costs, including, but not limited to, those for utilities, janitorial and accounting services, and sufficient to provide for contingencies; which shall not exceed five percent of the average annual rental, to meet unforeseen expenses incident to management of the real estate.

(8) If the director of general administration determines that it is necessary or advisable to undertake any work, construction, alteration, repair, or improvement on any real estate acquired pursuant to subsection (1) or (7) of this section, the director shall cause plans and specifications thereof and an estimate of the cost of such work to be made and filed in his or her office and the state agency benefiting thereby is hereby authorized to pay for such work out of any available funds: PROVIDED, That the cost of executing such work shall not exceed the sum of twenty-five thousand dollars. Work, construction, alteration, repair, or improvement in excess of twenty-five thousand dollars, other than that done by the owner of the property if other than the state, shall be performed in accordance with the public works law of this state.

(9) In order to obtain maximum utilization of space, the director of general administration shall make space utilization studies, and shall establish standards for use of space by state agencies. Such studies shall include the identification of opportunities for colocation and consolidation of state agency office and support facilities.

(10) The director of general administration may construct new buildings on, or improve existing facilities, and furnish and equip, all real estate under his or her management. Prior to the construction of new buildings or major improvements to existing facilities or acquisition of facilities using a lease purchase contract, the director of general administration shall conduct an evaluation of the facility design and budget using life-cycle cost analysis, value-engineering, and other techniques to maximize the long-term effectiveness and efficiency of the facility or improvement.

(11) All conveyances and contracts to purchase, lease, rent, transfer, exchange, or sell real estate and to grant and accept easements shall be approved as to form by the attorney general, signed by the director of general administration or the director's

designee, and recorded with the county auditor of the county in which the property is located.

(12) The director of general administration may delegate any or all of the functions specified in this section to any agency upon such terms and conditions as the director deems advisable.

(13) This section does not apply to the acquisition of real estate by:

(a) The state college and universities for research or experimental purposes;

(b) The state liquor control board for liquor stores and warehouses; and

(c) The department of natural resources, the department of fish and wildlife, the department of transportation, and the state parks and recreation commission for purposes other than the leasing of offices, warehouses, and real estate for similar purposes.

(14) Notwithstanding any provision in this chapter to the contrary, the department of general administration may negotiate ground leases for public lands on which property is to be acquired under a financing contract pursuant to chapter 39.94 RCW under terms approved by the state finance committee.

(15) This section is subject to and operates only to the extent its application is not inconsistent with the operation of section 3 of this act with respect to property acquired through or under the threat of condemnation.

Sec. 12. RCW 47.12.063 and 2006 c 17 s 2 are each amended to read as follows:

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

(2) Whenever the department determines that any real property owned by the state of Washington and under the jurisdiction of the department is no longer required for transportation purposes and that it is in the public interest to do so, the department may sell the property or exchange it in full or part consideration for land or improvements or for construction of improvements at fair market value to any of the following governmental entities or persons:

(a) Any other state agency;

(b) The city or county in which the property is situated;

(c) Any other municipal corporation;

(d) Regional transit authorities created under chapter 81.112 RCW;

(e) The former owner of the property from whom the state acquired title;

(f) In the case of residentially improved property, a tenant of the department who has resided thereon for not less than six months and who is not delinquent in paying rent to the state;

(g) Any abutting private owner but only after each other abutting private owner (if any), as shown in the records of the county assessor, is notified in writing of the proposed sale. If more than one abutting private owner requests in writing the right to purchase the property within fifteen days after receiving notice of the proposed sale, the property shall be sold at public auction in the manner provided in RCW 47.12.283;

(h) To any person through the solicitation of written bids through public advertising in the manner prescribed by RCW 47.28.050;

(i) To any other owner of real property required for transportation purposes;

(j) In the case of property suitable for residential use, any nonprofit organization dedicated to providing affordable housing to very low-income, low-income, and moderate-income households as defined in RCW 43.63A.510 and is eligible to receive assistance through the Washington housing trust fund created in chapter 43.185 RCW; or

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

(3) Sales to purchasers may at the department's option be for cash, by real estate contract, or exchange of land or

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improvements. Transactions involving the construction of improvements must be conducted pursuant to chapter 47.28 RCW or Title 39 RCW, as applicable, and must comply with all other applicable laws and rules.

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

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

(6) This section is subject to and operates only to the extent its application is not inconsistent with the operation of section 3 of this act with respect to property acquired through or under the threat of condemnation.

Sec. 13. RCW 47.12.283 and 1979 ex.s. c 189 s 1 are each amended to read as follows:

(1) Whenever the department of transportation determines that any real property owned by the state of Washington and under the jurisdiction of the department is no longer required for highway purposes and that it is in the public interest to do so, the department may, in its discretion, sell the property under RCW 47.12.063 or under subsections (2) through (6) of this section.

(2) Whenever the department determines to sell real property under its jurisdiction at public auction, the department shall first give notice thereof by publication on the same day of the week for two consecutive weeks, with the first publication at least two weeks prior to the date of the auction, in a legal newspaper of general circulation in the area where the property to be sold is located. The notice shall be placed in both the legal notices section and the real estate classified section of the newspaper. The notice shall contain a description of the property, the time and place of the auction, and the terms of the sale. The sale may be for cash or by real estate contract.

(3) The department shall sell the property at the public auction, in accordance with the terms set forth in the notice, to the highest and best bidder providing the bid is equal to or higher than the appraised fair market value of the property.

(4) If no bids are received at the auction or if all bids are rejected, the department may, in its discretion, enter into negotiations for the sale of the property or may list the property with a licensed real estate broker. No property shall be sold by negotiations or through a broker for less than the property's appraised fair market value. Any offer to purchase real property pursuant to this subsection shall be in writing and may be rejected at any time prior to written acceptance by the department.

(5) Before the department shall approve any offer for the purchase of real property having an appraised value of more than ten thousand dollars, pursuant to subsection (4) of this section, the department shall first publish a notice of the proposed sale in a local newspaper of general circulation in the area where the property is located. The notice shall include a description of the property, the selling price, the terms of the sale, including the price and interest rate if sold by real estate contract, and the name and address of the department employee or the real estate broker handling the transaction. The notice shall further state that any person may, within ten days after the publication of the notice, deliver to the designated state employee or real estate broker a written offer to purchase the property for not less than ten percent more than the negotiated sale price, subject to the same terms and conditions. A subsequent offer shall not be considered unless it is accompanied by a deposit of twenty percent of the offer in the form of cash, money order, cashier's check, or certified check payable to the Washington state treasurer, to be forfeited to the state (for deposit in the motor vehicle fund) if the offeror fails to complete the sale if the offeror's offer is accepted. If a subsequent offer is received, the first offeror shall be informed by registered or certified mail sent to the address stated in his

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offer. The first offeror shall then have ten days, from the date of mailing the notice of the increased offer, in which to file with the designated state employee or real estate broker a higher offer than that of the subsequent offeror. After the expiration of the ten day period, the department shall approve in writing the highest and best offer which the department then has on file.

(6) All moneys received pursuant to this section, less any real estate broker's commissions paid pursuant to RCW 47.12.320, shall be deposited in the motor vehicle fund.

(7) This section is subject to and operates only to the extent its application is not inconsistent with the operation of section 3 of this act with respect to property acquired through or under the threat of condemnation.

Sec. 14. RCW 53.08.090 and 1994 c 26 s 1 are each amended to read as follows:

(1) A port commission may, by resolution, authorize the managing official of a port district to sell and convey port district property of ten thousand dollars or less in value. The authority shall be in force for not more than one calendar year from the date of resolution and may be renewed from year to year. Prior to any such sale or conveyance the managing official shall itemize and list the property to be sold and make written certification to the commission that the listed property is no longer needed for district purposes. Any large block of the property having a value in excess of ten thousand dollars shall not be broken down into components of ten thousand dollars or less value and sold in the smaller components unless the smaller components be sold by public competitive bid. A port district may sell and convey any of its real or personal property valued at more than ten thousand dollars when the port commission has, by resolution, declared the property to be no longer needed for district purposes, but no property which is a part of the comprehensive plan of improvement or modification thereof shall be disposed of until the comprehensive plan has been modified to find the property surplus to port needs. The comprehensive plan shall be modified only after public notice and hearing provided by RCW 53.20.010.

Nothing in this section shall be deemed to repeal or modify procedures for property sales within industrial development districts as set forth in chapter 53.25 RCW.

(2) The ten thousand dollar figures in subsection (1) of this section shall be adjusted annually based upon the governmental price index established by the department of revenue under RCW 82.14.200.

(3) This section is subject to and operates only to the extent its application is not inconsistent with the operation of section 3 of this act with respect to property acquired through or under the threat of condemnation.

Sec. 15. RCW 53.25.040 and 1989 c 167 s 1 are each amended to read as follows:

(1) A port commission may, after a public hearing thereon, of which at least ten days' notice shall be published in a newspaper of general circulation in the port district, create industrial development districts within the district and define the boundaries thereof, if it finds that the creation of the industrial development district is proper and desirable in establishing and developing a system of harbor improvements and industrial development in the port district.

(2) The boundaries of an industrial development district created by subsection (1) of this section may be revised from time to time by resolution of the port commission, to delete land area therefrom, if the land area to be deleted was acquired by the port district with its own funds or by gift or transfer other than pursuant to RCW 53.25.050 or 53.25.060.

As to any land area to be deleted under this subsection that was acquired or improved by the port district with funds obtained through RCW 53.36.100, the port district shall deposit funds equal to the fair market value of the lands and improvements into the fund for future use described in RCW 53.36.100 and such funds shall be thereafter subject to RCW 53.36.100. The fair market value of the land and improvements

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shall be determined as of the effective date of the port commission action deleting the land from the industrial development district and shall be determined by an average of at least two independent appraisals by professionally designated real estate appraisers as defined in RCW 74.46.020 or licensed real estate brokers. The funds shall be deposited into the fund for future use described in RCW 53.36.100 within ninety days of the effective date of the port commission action deleting the land area from the industrial district. Land areas deleted from an industrial development district under this subsection shall not be further subject to the provisions of this chapter. This subsection shall apply to presently existing and future industrial development districts. Land areas deleted from an industrial development district under this subsection that were included within such district for less than two years, if the port district acquired the land through condemnation or as a consequence of threatened condemnation, shall be offered for sale, for cash, at the appraised price, to the former owner of the property from whom the district obtained title. Such offer shall be made by certified or registered letter to the last known address of the former owner. The letter shall include the appraised price of the property and notice that the former owner must respond in writing within thirty days or lose the right to purchase. If this right to purchase is exercised, the sale shall be closed by midnight of the sixtieth day, including nonbusiness days, following close of the thirty-day period. This section is subject to and operates only to the extent its application is not inconsistent with the operation of section 3 of this act with respect to property acquired through or under the threat of condemnation.

Sec. 16. RCW 70.44.300 and 1997 c 332 s 17 are each amended to read as follows:

(1) The board of commissioners of any public hospital district may sell and convey at public or private sale real property of the district if the board determines by resolution that the property is no longer required for public hospital district purposes or determines by resolution that the sale of the property will further the purposes of the public hospital district.

(2) Any sale of district real property authorized pursuant to this section shall be preceded, not more than one year prior to the date of sale, by market value appraisals by three licensed real estate brokers or professionally designated real estate appraisers as defined in RCW 74.46.020 or three independent experts in valuing health care property, selected by the board of commissioners, and no sale shall take place if the sale price would be less than ninety percent of the average of such appraisals.

(3) When the board of commissioners of any public hospital district proposes a sale of district real property pursuant to this section and the value of the property exceeds one hundred thousand dollars, the board shall publish a notice of its intention to sell the property. The notice shall be published at least once each week during two consecutive weeks in a legal newspaper of general circulation within the public hospital district. The notice shall describe the property to be sold and designate the place where and the day and hour when a hearing will be held. The board shall hold a public hearing upon the proposal to dispose of the public hospital district property at the place and the day and hour fixed in the notice and consider evidence offered for and against the propriety and advisability of the proposed sale.

(4) If in the judgment of the board of commissioners of any district the sale of any district real property not needed for public hospital district purposes would be facilitated and greater value realized through use of the services of licensed real estate brokers, a contract for such services may be negotiated and concluded. The fee or commissions charged for any broker service shall not exceed seven percent of the resulting sale price for a single parcel. No licensed real estate broker or professionally designated real estate appraisers as defined in RCW 74.46.020 or independent expert in valuing health care

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property selected by the board to appraise the market value of a parcel of property to be sold may be a party to any contract with the public hospital district to sell such property for a period of three years after the appraisal.

(5) This section is subject to and operates only to the extent its application is not inconsistent with the operation of section 3 of this act with respect to property acquired through or under the threat of condemnation.

Sec. 17. RCW 79.36.330 and 2004 c 199 s 217 are each amended to read as follows:

In the event the department should determine that the property interests acquired under the authority of this chapter are no longer necessary for the purposes for which they were acquired, the department shall dispose of the same in the following manner, when in the discretion of the department it is to the best interests of the state of Washington to do so, except that property purchased with educational funds or held in trust for educational purposes shall be sold only in the same manner as are state lands:

(1) Where the state property necessitating the acquisition of private property interests for access purposes under authority of this chapter is sold or exchanged, the acquired property interests may be sold or exchanged as an appurtenance of the state property when it is determined by the department that sale or exchange of the state property and acquired property interests as one parcel is in the best interests of the state.

(2) If the acquired property interests are not sold or exchanged as provided in subsection (1) of this section, the department shall notify the person or persons from whom the property interest was acquired, stating that the property interests are to be sold, and that the person or persons shall have the right to purchase the same at the appraised price. The notice shall be given by registered letter or certified mail, return receipt requested, mailed to the last known address of the person or persons. If the address of the person or persons is unknown, the notice shall be published twice in an official newspaper of general circulation in the county where the lands or a portion thereof is located. The second notice shall be published not less than ten nor more than thirty days after the notice is first published. The person or persons shall have thirty days after receipt of the registered letter or five days after the last date of publication, as the case may be, to notify the department, in writing, of their intent to purchase the offered property interest. The purchaser shall include with his or her notice of intention to purchase, cash payment, certified check, or money order in an amount not less than one-third of the appraised price. No instrument conveying property interests shall issue from the department until the full price of the property is received by the department. All costs of publication required under this section shall be added to the appraised price and collected by the department upon sale of the property interests.

(3) If the property interests are not sold or exchanged as provided in subsections (1) and (2) of this section, the department shall notify the owners of land abutting the property interests in the same manner as provided in subsection (2) of this section and their notice of intent to purchase shall be given in the manner and in accordance with the same time limits as are set forth in subsection (2) of this section. However, if more than one abutting owner gives notice of intent to purchase the property interests, the department shall apportion them in relation to the lineal footage bordering each side of the property interests to be sold, and apportion the costs to the interested purchasers in relation thereto. Further, no sale is authorized by this section unless the department is satisfied that the amounts to be received from the several purchasers will equal or exceed the appraised price of the entire parcel plus any costs of publishing notices.

(4) If no sale or exchange is consummated as provided in subsections (1) through (3) of this section, the department shall sell the properties in the same manner as state lands are sold.

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(5) Any disposal of property interests authorized by this chapter shall be subject to any existing rights previously granted by the department.

(6) This section is subject to and operates only to the extent its application is not inconsistent with the operation of section 3 of this act with respect to property acquired through or under the threat of condemnation.

Sec. 18. RCW 80.28.230 and 1961 c 14 s 80.28.230 are each amended to read as follows:

Any property or interest acquired as provided in RCW 80.28.220 shall be used exclusively for the purposes for which it was acquired: PROVIDED, HOWEVER, That if any such property be sold or otherwise disposed of by said corporations, such sale or disposition shall be by public sale or disposition and advertised in the manner of public sales in the county where such property is located. This section is subject to and operates only to the extent its application is not inconsistent with the operation of section 3 of this act with respect to property acquired through or under the threat of condemnation.

Sec. 19. RCW 80.40.030 and 1963 c 201 s 4 are each amended to read as follows:

Any natural gas company having received an order under RCW 80.40.040 shall have the right of eminent domain to be exercised in the manner provided in and subject to the provisions of chapter 8.20 RCW to acquire for its use for the underground storage of natural gas any underground reservoir, as well as such other property or interests in property as may be required to adequately maintain and utilize the underground reservoir for the underground storage of natural gas, including easements and rights of way for access to and egress from the underground storage reservoir. The right of eminent domain granted hereby shall apply to property or property interests held in private ownership, provided condemnor has exercised good faith in negotiations for private sale or lease. No property shall be taken or damaged until the compensation to be made therefor shall have been ascertained and paid. Any property or interest therein so acquired by any natural gas company shall be used exclusively for the purposes for which it was acquired. Any decree of appropriation hereunder shall define and limit the rights condemned and shall provide for the reversion of such rights to the defendant or defendants or their successors in interest upon abandonment of the underground storage project. Good faith exploration work or development work relative to the storage reservoir is conclusive evidence that its use has not been abandoned. The court may include in such decree such other relevant conditions, covenants and restrictions as it may deem fair and equitable. This section is subject to and operates only to the extent its application is not inconsistent with the operation of section 3 of this act with respect to property acquired through or under the threat of condemnation.

Sec. 20. RCW 81.112.080 and 1992 c 101 s 8 are each amended to read as follows:

An authority shall have the following powers in addition to the general powers granted by this chapter:

(1) To carry out the planning processes set forth in RCW 81.104.100;

(2) To acquire by purchase, condemnation, gift, or grant and to lease, construct, add to, improve, replace, repair, maintain, operate, and regulate the use of high capacity transportation facilities and properties within authority boundaries including surface, underground, or overhead railways, tramways, busways, buses, bus sets, entrained and linked buses, ferries, or other means of local transportation except taxis, and including escalators, moving sidewalks, personal rapid transit systems or other people-moving systems, passenger terminal and parking facilities and properties, and such other facilities and properties as may be necessary for passenger, vehicular, and vessel access to and from such people-moving systems, terminal and parking facilities and properties, together with all lands, rights of way, property, equipment, and accessories necessary for such high capacity transportation systems. When developing

specifications for high capacity transportation system operating equipment, an authority shall take into account efforts to establish or sustain a domestic manufacturing capacity for such equipment. The right of eminent domain shall be exercised by an authority in the same manner and by the same procedure as or may be provided by law for cities of the first class, except insofar as such laws may be inconsistent with the provisions of this chapter. Public transportation facilities and properties which are owned by any city, county, county transportation authority, public transportation benefit area, or metropolitan municipal corporation may be acquired or used by an authority only with the consent of the agency owning such facilities. Such agencies are hereby authorized to convey or lease such facilities to an authority or to contract for their joint use on such terms as may be fixed by agreement between the agency and the authority.

The facilities and properties of an authority whose vehicles will operate primarily within the rights of way of public streets, roads, or highways, may be acquired, developed, and operated without the corridor and design hearings that are required by RCW 35.58.273 for mass transit facilities operating on a separate right of way;

(3) To dispose of any real or personal property acquired in connection with any authority function and that is no longer required for the purposes of the authority, in the same manner as provided for cities of the first class. When an authority determines that a facility or any part thereof that has been acquired from any public agency without compensation is no longer required for authority purposes, but is required by the agency from which it was acquired, the authority shall by resolution transfer it to such agency. This subsection is subject to and operates only to the extent its application is not inconsistent with the operation of section 3 of this act with respect to property acquired through or under the threat of condemnation.

(4) To fix rates, tolls, fares, and charges for the use of such facilities and to establish various routes and classes of service. Fares or charges may be adjusted or eliminated for any distinguishable class of users.

NEW SECTION. Sec. 21. A new section is added to chapter 8.04 RCW to read as follows:

(1) No public entity that is subject to this chapter or that derives authority from this chapter may take private property solely for the purpose of economic development.

(2) For the purposes of this section, "economic development" means the acquisition or use of real property to increase tax revenue, tax base, employment, or economic health. For the purposes of this section, "economic development" does not include the acquisition or use of real property for the primary purpose of:

(a) The transfer of real property to public ownership;

(b) The transfer of real property to a private entity that is a common carrier, such as a utility or railroad;

(c) The transfer of real property to a private entity when acquisition or appropriation is necessary to remove a threat to public health or safety based on the present condition and use of the real property;

(d) The transfer of real property to a private entity when acquisition or appropriation is necessary for the removal of unsanitary or unsafe conditions, conditions that endanger life or property by fire or other causes, conditions conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime, hazardous soils, substances, or materials, or conditions detrimental to or constituting a menace to the public health, safety, welfare, and morals in its present condition and use;

(e) The transfer of real property to a private entity when acquisition or appropriation is necessary for the acquisition of abandoned property; or

(f) The lease of real property to a private entity that occupies an area within a public project or facility.

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(3) This section does not apply to port districts or to common carriers such as utilities and railroads and does not by implication increase, decrease, or alter the powers of eminent domain of those districts or common carriers.

NEW SECTION. Sec. 22. A new section is added to chapter 8.08 RCW to read as follows:

(1) No public entity that is subject to this chapter or that derives authority from this chapter may take private property solely for the purpose of economic development.

(2) For the purposes of this section, "economic development" means the acquisition or use of real property to increase tax revenue, tax base, employment, or economic health. For the purposes of this section, "economic development" does not include the acquisition or use of real property for the primary purpose of:

(a) The transfer of real property to public ownership;

(b) The transfer of real property to a private entity that is a common carrier, such as a utility or railroad;

(c) The transfer of real property to a private entity when acquisition or appropriation is necessary to remove a threat to public health or safety based on the present condition and use of the real property;

(d) The transfer of real property to a private entity when acquisition or appropriation is necessary for the removal of unsanitary or unsafe conditions, conditions that endanger life or property by fire or other causes, conditions conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime, hazardous soils, substances, or materials, or conditions detrimental to or constituting a menace to the public health, safety, welfare, and morals in its present condition and use;

(e) The transfer of real property to a private entity when acquisition or appropriation is necessary for the acquisition of abandoned property; or

(f) The lease of real property to a private entity that occupies an area within a public project or facility.

(3) This section does not apply to port districts or to common carriers such as utilities and railroads and does not by implication increase, decrease, or alter the powers of eminent domain of those districts or common carriers.

NEW SECTION. Sec. 23. A new section is added to chapter 8.12 RCW to read as follows:

(1) No public entity that is subject to this chapter or that derives authority from this chapter may take private property solely for the purpose of economic development.

(2) For the purposes of this section, "economic development" means the acquisition or use of real property to increase tax revenue, tax base, employment, or economic health. For the purposes of this section, "economic development" does not include the acquisition or use of real property for the primary purpose of:

(a) The transfer of real property to public ownership;

(b) The transfer of real property to a private entity that is a common carrier, such as a utility or railroad;

(c) The transfer of real property to a private entity when acquisition or appropriation is necessary to remove a threat to public health or safety based on the present condition and use of the real property;

(d) The transfer of real property to a private entity when acquisition or appropriation is necessary for the removal of unsanitary or unsafe conditions, conditions that endanger life or property by fire or other causes, conditions conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime, hazardous soils, substances, or materials, or conditions detrimental to or constituting a menace to the public health, safety, welfare, and morals in its present condition and use;

(e) The transfer of real property to a private entity when acquisition or appropriation is necessary for the acquisition of abandoned property; or

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(f) The lease of real property to a private entity that occupies an area within a public project or facility.

(3) This section does not apply to port districts or to common carriers such as utilities and railroads and does not by implication increase, decrease, or alter the powers of eminent domain of those districts or common carriers.

NEW SECTION. Sec. 24. A new section is added to chapter 8.16 RCW to read as follows:

(1) No public entity that is subject to this chapter or that derives authority from this chapter may take private property solely for the purpose of economic development.

(2) For the purposes of this section, "economic development" means the acquisition or use of real property to increase tax revenue, tax base, employment, or economic health. For the purposes of this section, "economic development" does not include the acquisition or use of real property for the primary purpose of:

(a) The transfer of real property to public ownership;

(b) The transfer of real property to a private entity that is a common carrier, such as a utility or railroad;

(c) The transfer of real property to a private entity when acquisition or appropriation is necessary to remove a threat to public health or safety based on the present condition and use of the real property;

(d) The transfer of real property to a private entity when acquisition or appropriation is necessary for the removal of unsanitary or unsafe conditions, conditions that endanger life or property by fire or other causes, conditions conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime, hazardous soils, substances, or materials, or conditions detrimental to or constituting a menace to the public health, safety, welfare, and morals in its present condition and use;

(e) The transfer of real property to a private entity when acquisition or appropriation is necessary for the acquisition of abandoned property; or

(f) The lease of real property to a private entity that occupies an area within a public project or facility.

(3) This section does not apply to port districts or to common carriers such as utilities and railroads and does not by implication increase, decrease, or alter the powers of eminent domain of those districts or common carriers.

NEW SECTION. Sec. 25. A new section is added to chapter 8.20 RCW to read as follows:

(1) No public entity that is subject to this chapter or that derives authority from this chapter may take private property solely for the purpose of economic development.

(2) For the purposes of this section, "economic development" means the acquisition or use of real property to increase tax revenue, tax base, employment, or economic health. For the purposes of this section, "economic development" does not include the acquisition or use of real property for the primary purpose of:

(a) The transfer of real property to public ownership;

(b) The transfer of real property to a private entity that is a common carrier, such as a utility or railroad;

(c) The transfer of real property to a private entity when acquisition or appropriation is necessary to remove a threat to public health or safety based on the present condition and use of the real property;

(d) The transfer of real property to a private entity when acquisition or appropriation is necessary for the removal of unsanitary or unsafe conditions, conditions that endanger life or property by fire or other causes, conditions conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime, hazardous soils, substances, or materials, or conditions detrimental to or constituting a menace to the public health, safety, welfare, and morals in its present condition and use;

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(e) The transfer of real property to a private entity when acquisition or appropriation is necessary for the acquisition of abandoned property; or

(f) The lease of real property to a private entity that occupies an area within a public project or facility.

(3) This section does not apply to port districts or to common carriers such as utilities and railroads and does not by implication increase, decrease, or alter the powers of eminent domain of those districts or common carriers.

NEW SECTION. Sec. 26. A new section is added to chapter 8.25 RCW to read as follows:

(1) No public entity may take private property solely for the purpose of economic development.

(2) For the purposes of this section, "economic development" means the acquisition or use of real property to increase tax revenue, tax base, employment, or economic health. For the purposes of this section, "economic development" does not include the acquisition or use of real property for the primary purpose of:

(a) The transfer of real property to public ownership;

(b) The transfer of real property to a private entity that is a common carrier, such as a utility or railroad;

(c) The transfer of real property to a private entity when acquisition or appropriation is necessary to remove a threat to public health or safety based on the present condition and use of the real property;

(d) The transfer of real property to a private entity when acquisition or appropriation is necessary for the removal of unsanitary or unsafe conditions, conditions that endanger life or property by fire or other causes, conditions conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime, hazardous soils, substances, or materials, or conditions detrimental to or constituting a menace to the public health, safety, welfare, and morals in its present condition and use;

(e) The transfer of real property to a private entity when acquisition or appropriation is necessary for the acquisition of abandoned property; or

(f) The lease of real property to a private entity that occupies an area within a public project or facility.

(3) This section does not apply to port districts or to common carriers such as utilities and railroads and does not by implication increase, decrease, or alter the powers of eminent domain of those districts or common carriers.

NEW SECTION. Sec. 27. A new section is added to chapter 35.81 RCW to read as follows:

Acquisitions of property through the exercise of the power of eminent domain under this chapter are subject to sections 22 and 23 of this act.

NEW SECTION. Sec. 28. This act applies to condemnation proceedings commenced on or after the effective date of this act."

On page 1, line 1 of the title, after "domain;" strike the remainder of the title and insert "amending RCW 8.25.020, 28A.335.120, 35.58.340, 35.80A.030, 35.94.040, 36.68.010, 43.43.115, 43.82.010, 47.12.063, 47.12.283, 53.08.090, 53.25.040, 70.44.300, 79.36.330, 80.28.230, 80.40.030, and 81.112.080; adding new sections to chapter 8.25 RCW; adding a new section to chapter 39.33 RCW; adding a new section to chapter 8.04 RCW; adding a new section to chapter 8.08 RCW; adding a new section to chapter 8.12 RCW; adding a new section to chapter 8.16 RCW; adding a new section to chapter 8.20 RCW; adding a new section to chapter 35.81 RCW; and creating a new section."

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

POINT OF ORDER

Senator McCaslin: "This is one of the reasons I feel that major amendments should go back to the committee such as in Oregon. We always give the public five days notice when we hear a bill in committee but yet we bring amendments on the floor that this party has not seen it. We have not discussed this in caucus. We had absolutely no knowledge of this coming on the floor and I would ask you to set it down until we have an opportunity to examine it. Thank you."

MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute House Bill No. 2016 was deferred and the bill held its place on the second reading calendar.

SECOND READING

HOUSE BILL NO. 1137, by Representatives Fromhold, McDonald, Ormsby, Moeller and Haler

Creating the water quality capital account.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, House Bill No. 1137 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1137.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1137 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

HOUSE BILL NO. 1137, 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. 1414, by House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Green, Morrell, Moeller, Schual-Berke and Campbell)

Licensing ambulatory surgical facilities.

The measure was read the second time.

MOTION

Senator Keiser moved that the following committee striking

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

(1) "Ambulatory surgical facility" means any distinct entity that operates for the primary purpose of providing specialty or multispecialty outpatient surgical services in which patients are admitted to and discharged from the facility within twenty-four hours and do not require inpatient hospitalization, whether or not the facility is certified under Title XVIII of the federal social security act.

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

(3) "General anesthesia" means a state of unconsciousness intentionally produced by anesthetic agents, with absence of pain sensation over the entire body, in which the patient is without protective reflexes and is unable to maintain an airway.

(4) "Person" means an individual, firm, partnership, corporation, company, association, joint stock association, and the legal successor thereof.

(5) "Practitioner" means any physician or surgeon licensed under chapter 18.71 RCW, an osteopathic physician or surgeon licensed under chapter 18.57 RCW, or a podiatric physician or surgeon licensed under chapter 18.22 RCW.

(6) "Secretary" means the secretary of health.

(7) "Surgical services" means invasive medical procedures that:

(a) Utilize a knife, laser, cautery, cryogenics, or chemicals; and

(b) Remove, correct, or facilitate the diagnosis or cure of a disease, process, or injury through that branch of medicine that treats diseases, injuries, and deformities by manual or operative methods by a practitioner.

NEW SECTION. Sec. 2. The secretary shall:

(1) Issue a license to any ambulatory surgical facility that:

(a) Submits payment of the fee established in section 7 of this act;

(b) Submits a completed application that demonstrates the ability to comply with the standards established for operating and maintaining an ambulatory surgical facility in statute and rule. An ambulatory surgical facility shall be deemed to have met the standards if it submits proof of certification as a medicare ambulatory surgical facility or accreditation by an organization that the secretary has determined to have substantially equivalent standards to those of the department; and

(c) Successfully completes the survey requirements established in section 11 of this act;

(2) Develop an application form for applicants for a license to operate an ambulatory surgical facility;

(3) Initiate investigations and enforcement actions for complaints or other information regarding failure to comply with this chapter or the standards and rules adopted under this chapter;

(4) Conduct surveys of facilities, including reviews of medical records and documents required to be maintained under this chapter or rules adopted under this chapter;

(5) By March 1, 2008, determine which accreditation organizations have substantially equivalent standards for purposes of deeming specific licensing requirements required in statute and rule as having met the state's standards; and

(6) Adopt any rules necessary to implement this chapter.

NEW SECTION. Sec. 3. Except as provided in section 4 of this act, after June 30, 2009, no person or governmental unit of the state of Washington, acting separately or jointly with any other person or governmental unit, shall establish, maintain, or conduct an ambulatory surgical facility in this state or advertise by using the term "ambulatory surgical facility," "day surgery center," "licensed surgical center," or other words conveying

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similar meaning without a license issued by the department under this chapter.

NEW SECTION. Sec. 4. Nothing in this chapter:

(1) Applies to an ambulatory surgical facility that is maintained and operated by a hospital licensed under chapter 70.41 RCW;

(2) Applies to an office maintained for the practice of dentistry;

(3) Applies to outpatient specialty or multispecialty surgical services routinely and customarily performed in the office of a practitioner in an individual or group practice that do not require general anesthesia; or

(4) Limits an ambulatory surgical facility to performing only surgical services.

NEW SECTION. Sec. 5. (1) An applicant for a license to operate an ambulatory surgical facility must demonstrate the ability to comply with the standards established for operating and maintaining an ambulatory surgical facility in statute and rule, including:

(a) Submitting a written application to the department providing all necessary information on a form provided by the department, including a list of surgical specialties offered;

(b) Submitting building plans for review and approval by the department for new construction, alterations other than minor alterations, and additions to existing facilities, prior to obtaining a license and occupying the building;

(c) Demonstrating the ability to comply with this chapter and any rules adopted under this chapter;

(d) Cooperating with the department during on-site surveys prior to obtaining an initial license or renewing an existing license;

(e) Providing such proof as the department may require concerning the ownership and management of the ambulatory surgical facility, including information about the organization and governance of the facility and the identity of the applicant, officers, directors, partners, managing employees, or owners of ten percent or more of the applicant's assets;

(f) Submitting proof of operation of a coordinated quality improvement program in accordance with section 9 of this act;

(g) Submitting a copy of the facility safety and emergency training program established under section 6 of this act;

(h) Paying any fees established under section 7 of this act; and

(i) Providing any other information that the department may reasonably require.

(2) A license is valid for three years, after which an ambulatory surgical facility must submit an application for renewal of license upon forms provided by the department and the renewal fee as established in section 7 of this act. The applicant must demonstrate the ability to comply with the standards established for operating and maintaining an ambulatory surgical facility in statutes, standards, and rules. The applicant must submit the license renewal document no later than thirty days prior to the date of expiration of the license.

(3) The applicant may demonstrate compliance with any of the requirements of subsection (1) of this section by providing satisfactory documentation to the secretary that it has met the standards of an accreditation organization or federal agency that the secretary has determined to have substantially equivalent standards as the statutes and rules of this state.

NEW SECTION. Sec. 6. An ambulatory surgical facility shall have a facility safety and emergency training program. The program shall include:

(1) On-site equipment, medication, and trained personnel to facilitate handling of services sought or provided and to facilitate the management of any medical emergency that may arise in connection with services sought or provided;

(2) Written transfer agreements with local hospitals licensed under chapter 70.41 RCW, approved by the ambulatory surgical facility's medical staff; and

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(3) A procedural plan for handling medical emergencies that shall be available for review during surveys and inspections.

NEW SECTION. Sec. 7. The department of health shall convene a group of interested stakeholders to identify relevant regulatory issues related to the implementation of this act, including a reasonable fee schedule for licenses and renewal licenses. The group shall report to the department on their recommendations no later than December 15, 2007.

NEW SECTION. Sec. 8. (1) The secretary may deny, suspend, or revoke the license of any ambulatory surgical facility in any case in which he or she finds the applicant or registered entity knowingly made a false statement of material fact in the application for the license or any supporting data in any record required by this chapter or matter under investigation by the department.

(2) The secretary shall investigate complaints concerning operation of an ambulatory surgical facility without a license. The secretary may issue a notice of intention to issue a cease and desist order to any person whom the secretary has reason to believe is engaged in the unlicensed operation of an ambulatory surgical facility. If the secretary makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, the secretary may issue a temporary cease and desist order. The person receiving a temporary cease and desist order shall be provided an opportunity for a prompt hearing. The temporary cease and desist order shall remain in effect until further order of the secretary. Any person operating an ambulatory surgical facility under this chapter without a license is guilty of a misdemeanor, and each day of operation of an unlicensed ambulatory surgical facility constitutes a separate offense.

(3) The secretary is authorized to deny, suspend, revoke, or modify a license or provisional license in any case in which it finds that there has been a failure or refusal to comply with the requirements of this chapter or the standards or rules adopted under this chapter. RCW 43.70.115 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.

(4) Pursuant to chapter 34.05 RCW, the secretary may assess monetary penalties of a civil nature not to exceed one thousand dollars per violation.

NEW SECTION. Sec. 9. (1) Every ambulatory surgical facility shall maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice. The program shall include at least the following:

(a) The establishment of a quality improvement committee with the responsibility to review the services rendered in the ambulatory surgical facility, both retrospectively and prospectively, in order to improve the quality of medical care of patients and to prevent medical malpractice. The committee shall oversee and coordinate the quality improvement and medical malpractice prevention program and shall ensure that information gathered pursuant to the program is used to review and to revise the policies and procedures of the ambulatory surgical facility;

(b) A medical staff privileges sanction procedure through which credentials, physical and mental capacity, and competence in delivering health care services are periodically reviewed as part of an evaluation of staff privileges;

(c) The periodic review of the credentials, physical and mental capacity, and competence in delivering health care services of all persons who are employed or associated with the ambulatory surgical facility;

(d) A procedure for the prompt resolution of grievances by patients or their representatives related to accidents, injuries, treatment, and other events that may result in claims of medical malpractice;

(e) The maintenance and continuous collection of information concerning the ambulatory surgical facility's

experience with negative health care outcomes and incidents injurious to patients, patient grievances, professional liability premiums, settlements, awards, costs incurred by the ambulatory surgical facility for patient injury prevention, and safety improvement activities;

(f) The maintenance of relevant and appropriate information gathered pursuant to (a) through (e) of this subsection concerning individual practitioners within the practitioner's personnel or credential file maintained by the ambulatory surgical facility;

(g) Education programs dealing with quality improvement, patient safety, medication errors, injury prevention, staff responsibility to report professional misconduct, the legal aspects of patient care, improved communication with patients, and causes of malpractice claims for staff personnel engaged in patient care activities; and

(h) Policies to ensure compliance with the reporting requirements of this section.

(2) Any person who, in substantial good faith, provides information to further the purposes of the quality improvement and medical malpractice prevention program or who, in substantial good faith, participates on the quality improvement committee is not subject to an action for civil damages or other relief as a result of such activity. Any person or entity participating in a coordinated quality improvement program that, in substantial good faith, shares information or documents with one or more other programs, committees, or boards under subsection (8) of this section is not subject to an action for civil damages or other relief as a result of the activity. For the purposes of this section, sharing information is presumed to be in substantial good faith. However, the presumption may be rebutted upon a showing of clear, cogent, and convincing evidence that the information shared was knowingly false or deliberately misleading.

(3) Information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee are not subject to review or disclosure, except as provided in this section, or discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence of information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any, and the reasons for the restrictions; or (e) in any civil action, discovery and introduction into evidence of the patient's medical records required by rule of the department to be made regarding the care and treatment received.

(4) Each quality improvement committee shall, on at least a semiannual basis, report to the management of the ambulatory surgical facility, as identified in the facility's application, in which the committee is located. The report shall review the quality improvement activities conducted by the committee, and any actions taken as a result of those activities.

(5) The department shall adopt such rules as are deemed appropriate to effectuate the purposes of this section.

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(6) The medical quality assurance commission, the board of osteopathic medicine and surgery, or the podiatric medical board, as appropriate, may review and audit the records of committee decisions in which a practitioner's privileges are terminated or restricted. Each ambulatory surgical facility shall produce and make accessible to the commission or board the appropriate records and otherwise facilitate the review and audit. Information so gained is not subject to the discovery process and confidentiality shall be respected as required by subsection (3) of this section. Failure of an ambulatory surgical facility to comply with this subsection is punishable by a civil penalty not to exceed two hundred fifty dollars.

(7) The department and any accrediting organization may review and audit the records of a quality improvement committee or peer review committee in connection with their inspection and review of the ambulatory surgical facility. Information so obtained is not subject to the discovery process, and confidentiality shall be respected as required by subsection (3) of this section. Each ambulatory surgical facility shall produce and make accessible to the department the appropriate records and otherwise facilitate the review and audit.

(8) A coordinated quality improvement program may share information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee or a peer review committee under RCW 4.24.250 with one or more other coordinated quality improvement programs maintained in accordance with this section or RCW 43.70.510 or 70.41.200, a quality assurance committee maintained in accordance with RCW 18.20.390 or 74.42.640, or a peer review committee under RCW 4.24.250, for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice. The privacy protections of chapter 70.02 RCW and the federal health insurance portability and accountability act of 1996 and its implementing regulations apply to the sharing of individually identifiable patient information held by a coordinated quality improvement program. Any rules necessary to implement this section shall meet the requirements of applicable federal and state privacy laws. Information and documents disclosed by one coordinated quality improvement program to another coordinated quality improvement program or a peer review committee under RCW 4.24.250 and any information and documents created or maintained as a result of the sharing of information and documents are not subject to the discovery process and confidentiality shall be respected as required by subsection (3) of this section, RCW 18.20.390 (6) and (8), 70.41.200(3), 74.42.640 (7) and (9), and 4.24.250.

(9) An ambulatory surgical facility that participates in a coordinated quality improvement program under RCW 43.70.510 shall be deemed to have met the requirements of this section.

(10) Violation of this section shall not be considered negligence per se.

NEW SECTION. Sec. 10. The department shall establish and adopt such minimum standards and rules pertaining to the construction, maintenance, and operation of ambulatory surgical facilities and rescind, amend, or modify such rules, as are necessary in the public interest, and particularly for the establishment and maintenance of standards of patient care required for the safe and adequate care and treatment of patients. In establishing the format and content of these standards and rules, the department shall give consideration to maintaining consistency with such minimum standards and rules applicable to ambulatory surgical facilities in the survey standards of accrediting organizations or federal agencies that the secretary has determined to have substantially equivalent standards as the statutes and rules of this state.

NEW SECTION. Sec. 11. (1) The department shall make or cause to be made a survey of all ambulatory surgical facilities every eighteen months. Every survey of an ambulatory surgical

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facility may include an inspection of every part of the surgical facility. The department may make an examination of all phases of the ambulatory surgical facility operation necessary to determine compliance with all applicable statutes, rules, and regulations. In the event that the department is unable to make a survey or cause a survey to be made during the three years of the term of the license, the license of the ambulatory surgical facility shall remain in effect until the state conducts a survey or a substitute survey is performed if the ambulatory surgical facility is in compliance with all other licensing requirements.

(2) An ambulatory surgical facility shall be deemed to have met the survey standards of this section if it submits proof of certification as a medicare ambulatory surgical facility or accreditation by an organization that the secretary has determined to have substantially equivalent survey standards to those of the department. A survey performed pursuant to medicare certification or by an approved accrediting organization may substitute for a survey by the department if:

(a) The ambulatory surgical facility has satisfactorily completed a survey by the department in the previous eighteen months; and

(b) Within thirty days of learning the result of a survey, the ambulatory surgical facility provides the department with documentary evidence that the ambulatory surgical facility has been certified or accredited as a result of a survey and the date of the survey.

(3) Ambulatory surgical facilities shall make the written reports of surveys conducted pursuant to medicare certification procedures or by an approved accrediting organization available to department surveyors during any department surveys, upon request.

NEW SECTION. Sec. 12. The department shall require ambulatory surgical facilities to submit data related to the quality of patient care for review by the department. The data shall be submitted every eighteen months. The department shall consider the reporting standards of other public and private organizations that measure quality in order to maintain consistency in reporting and minimize the burden on the ambulatory surgical facility. The department shall review the data to determine the maintenance of quality patient care at the facility. If the department determines that the care offered at the facility may present a risk to the health and safety of patients, the department may conduct an inspection of the facility and initiate appropriate actions to protect the public. Information submitted to the department pursuant to this section shall be exempt from disclosure under chapter 42.56 RCW.

NEW SECTION. Sec. 13. (1) The chief administrator or executive officer of an ambulatory surgical facility shall report to the department when the practice of a health care provider licensed by a disciplining authority under RCW 18.130.040 is restricted, suspended, limited, or terminated based upon a conviction, determination, or finding by the ambulatory surgical facility that the provider has committed an action defined as unprofessional conduct under RCW 18.130.180. The chief administrator or executive officer shall also report any voluntary restriction or termination of the practice of a health care provider licensed by a disciplining authority under RCW 18.130.040 while the provider is under investigation or the subject of a proceeding by the ambulatory surgical facility regarding unprofessional conduct, or in return for the ambulatory surgical facility not conducting such an investigation or proceeding or not taking action. The department shall forward the report to the appropriate disciplining authority.

(2) Reports made under subsection (1) of this section must be made within fifteen days of the date of: (a) A conviction, determination, or finding by the ambulatory surgical facility that the health care provider has committed an action defined as unprofessional conduct under RCW 18.130.180; or (b) acceptance by the ambulatory surgical facility of the voluntary restriction or termination of the practice of a health care provider, including his or her voluntary resignation, while under

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investigation or the subject of proceedings regarding unprofessional conduct under RCW 18.130.180.

(3) Failure of an ambulatory surgical facility to comply with this section is punishable by a civil penalty not to exceed two hundred fifty dollars.

(4) An ambulatory surgical facility, its chief administrator, or its executive officer who files a report under this section is immune from suit, whether direct or derivative, in any civil action related to the filing or contents of the report, unless the conviction, determination, or finding on which the report and its content are based is proven to not have been made in good faith. The prevailing party in any action brought alleging that the conviction, determination, finding, or report was not made in good faith is entitled to recover the costs of litigation, including reasonable attorneys' fees.

(5) The department shall forward reports made under subsection (1) of this section to the appropriate disciplining authority designated under Title 18 RCW within fifteen days of the date the report is received by the department. The department shall notify an ambulatory surgical facility that has made a report under subsection (1) of this section of the results of the disciplining authority's case disposition decision within fifteen days after the case disposition. Case disposition is the decision whether to issue a statement of charges, take informal action, or close the complaint without action against a provider. In its biennial report to the legislature under RCW 18.130.310, the department shall specifically identify the case dispositions of reports made by ambulatory surgical facilities under subsection (1) of this section.

NEW SECTION. Sec. 14. Each ambulatory surgical facility shall keep written records of decisions to restrict or terminate privileges of practitioners. Copies of such records shall be made available to the medical quality assurance commission, the board of osteopathic medicine and surgery, or the podiatric medical board, within thirty days of a request, and all information so gained remains confidential in accordance with sections 9 and 13 of this act and is protected from the discovery process. Failure of an ambulatory surgical facility to comply with this section is punishable by a civil penalty not to exceed two hundred fifty dollars.

NEW SECTION. Sec. 15. (1) Prior to granting or renewing clinical privileges or association of any practitioner or hiring a practitioner, an ambulatory surgical facility approved pursuant to this chapter shall request from the practitioner and the practitioner shall provide the following information:

(a) The name of any hospital, ambulatory surgical facility, or other facility with or at which the practitioner had or has any association, employment, privileges, or practice;

(b) If such association, employment, privilege, or practice was discontinued, the reasons for its discontinuation;

(c) Any pending professional medical misconduct proceedings or any pending medical malpractice actions in this state or another state, the substance of the allegations in the proceedings or actions, and any additional information concerning the proceedings or actions as the practitioner deems appropriate;

(d) The substance of the findings in the actions or proceedings and any additional information concerning the actions or proceedings as the practitioner deems appropriate;

(e) A waiver by the practitioner of any confidentiality provisions concerning the information required to be provided to ambulatory surgical facilities pursuant to this subsection; and

(f) A verification by the practitioner that the information provided by the practitioner is accurate and complete.

(2) Prior to granting privileges or association to any practitioner or hiring a practitioner, an ambulatory surgical facility approved under this chapter shall request from any hospital or ambulatory surgical facility with or at which the practitioner had or has privileges, was associated, or was employed, the following information concerning the practitioner:

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(a) Any pending professional medical misconduct proceedings or any pending medical malpractice actions, in this state or another state;

(b) Any judgment or settlement of a medical malpractice action and any finding of professional misconduct in this state or another state by a licensing or disciplinary board; and

(c) Any information required to be reported by hospitals or ambulatory surgical facilities pursuant to RCW 18.130.070.

(3) The medical quality assurance commission, board of osteopathic medicine and surgery, podiatric medical board, or dental quality assurance commission, as appropriate, shall be advised within thirty days of the name of any practitioner denied staff privileges, association, or employment on the basis of adverse findings under subsection (1) of this section.

(4) A hospital, ambulatory surgical facility, or other facility that receives a request for information from another hospital, ambulatory surgical facility, or other facility pursuant to subsections (1) and (2) of this section shall provide such information concerning the physician in question to the extent such information is known to the hospital, ambulatory surgical facility, or other facility receiving such a request, including the reasons for suspension, termination, or curtailment of employment or privileges at the hospital, ambulatory surgical facility, or facility. A hospital, ambulatory surgical facility, other facility, or other person providing such information in good faith is not liable in any civil action for the release of such information.

(5) Information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee are not subject to discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any, and the reasons for the restrictions; or (e) in any civil action, discovery and introduction into evidence of the patient's medical records required by rule of the department to be made regarding the care and treatment received.

(6) Ambulatory surgical facilities shall be granted access to information held by the medical quality assurance commission, board of osteopathic medicine and surgery, or podiatric medical board pertinent to decisions of the ambulatory surgical facility regarding credentialing and recredentialing of practitioners.

(7) Violation of this section shall not be considered negligence per se.

NEW SECTION. Sec. 16. Ambulatory surgical facilities shall have in place policies to assure that, when appropriate, information about unanticipated outcomes is provided to patients or their families or any surrogate decision makers identified pursuant to RCW 7.70.065. Notifications of unanticipated outcomes under this section do not constitute an acknowledgement or admission of liability, nor may the fact of notification, the content disclosed, or any and all statements,

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affirmations, gestures, or conduct expressing apology be introduced as evidence in a civil action.

NEW SECTION. Sec. 17. Every ambulatory surgical facility shall post in conspicuous locations a notice of the department's ambulatory surgical facility complaint toll-free telephone number. The form of the notice shall be approved by the department.

NEW SECTION. Sec. 18. Information received by the department through filed reports, inspection, or as otherwise authorized under this chapter may be disclosed publicly, as permitted under chapter 42.56 RCW, subject to the following provisions:

(1) Licensing inspections, or complaint investigations regardless of findings, shall, as requested, be disclosed no sooner than three business days after the ambulatory surgical facility has received the resulting assessment report;

(2) Information regarding administrative action against the license shall, as requested, be disclosed after the ambulatory surgical facility has received the documents initiating the administrative action;

(3) Information about complaints that did not warrant an investigation shall not be disclosed except to notify the ambulatory surgical facility and the complainant that the complaint did not warrant an investigation; and

(4) Information disclosed under this section shall not disclose individual names.

NEW SECTION. Sec. 19. The ambulatory surgical facility account is created in the custody of the state treasurer. All receipts from fees and penalties imposed under this chapter must be deposited into the account. Expenditures from the account may be used only for administration of this chapter. Only the secretary or the secretary's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

Sec. 20. RCW 70.56.010 and 2006 c 8 s 105 are each amended to read as follows:

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

(1) "Adverse health event" or "adverse event" means the list of serious reportable events adopted by the national quality forum in 2002, in its consensus report on serious reportable events in health care. The department shall update the list, through adoption of rules, as subsequent changes are made by the national quality forum. The term does not include an incident.

(2) "Ambulatory surgical facility" means ~~((any distinct entity that operates exclusively for the purpose of providing surgical services to patients not requiring hospitalization, whether or not the facility is certified under Title XVIII of the federal social security act))~~ a facility licensed under chapter 70.-- RCW (sections 1 through 19 of this act).

(3) "Childbirth center" means a facility licensed under chapter 18.46 RCW.

(4) "Correctional medical facility" means a part or unit of a correctional facility operated by the department of corrections under chapter 72.10 RCW that provides medical services for lengths of stay in excess of twenty-four hours to offenders.

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

(6) "Health care worker" means an employee, independent contractor, licensee, or other individual who is directly involved in the delivery of health services in a medical facility.

(7) "Hospital" means a facility licensed under chapter 70.41 RCW.

(8) "Incident" means an event, occurrence, or situation involving the clinical care of a patient in a medical facility that:

(a) Results in unanticipated injury to a patient that is not related to the natural course of the patient's illness or underlying condition and does not constitute an adverse event; or

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(b) Could have injured the patient but did not either cause an unanticipated injury or require the delivery of additional health care services to the patient.

"Incident" does not include an adverse event.

(9) "Independent entity" means that entity that the department of health contracts with under RCW 70.56.040 to receive notifications and reports of adverse events and incidents, and carry out the activities specified in RCW 70.56.040.

(10) "Medical facility" means a childbirth center, hospital, psychiatric hospital, or correctional medical facility. An ambulatory surgical facility shall be considered a medical facility for purposes of this chapter upon the effective date of any requirement for state registration or licensure of ambulatory surgical facilities.

(11) "Psychiatric hospital" means a hospital facility licensed as a psychiatric hospital under chapter 71.12 RCW.

Sec. 21. RCW 43.70.510 and 2006 c 8 s 113, 2005 c 291 s 2, 2005 c 274 s 302, and 2005 c 33 s 6 are each reenacted and amended to read as follows:

(1)(a) Health care institutions and medical facilities, other than hospitals, that are licensed by the department, professional societies or organizations, health care service contractors, health maintenance organizations, health carriers approved pursuant to chapter 48.43 RCW, and any other person or entity providing health care coverage under chapter 48.42 RCW that is subject to the jurisdiction and regulation of any state agency or any subdivision thereof may maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice as set forth in RCW 70.41.200.

(b) All such programs shall comply with the requirements of RCW 70.41.200(1) (a), (c), (d), (e), (f), (g), and (h) as modified to reflect the structural organization of the institution, facility, professional societies or organizations, health care service contractors, health maintenance organizations, health carriers, or any other person or entity providing health care coverage under chapter 48.42 RCW that is subject to the jurisdiction and regulation of any state agency or any subdivision thereof, unless an alternative quality improvement program substantially equivalent to RCW 70.41.200(1)(a) is developed. All such programs, whether complying with the requirement set forth in RCW 70.41.200(1)(a) or in the form of an alternative program, must be approved by the department before the discovery limitations provided in subsections (3) and (4) of this section and the exemption under RCW 42.56.360(1)(c) and subsection (5) of this section shall apply. In reviewing plans submitted by licensed entities that are associated with physicians' offices, the department shall ensure that the exemption under RCW 42.56.360(1)(c) and the discovery limitations of this section are applied only to information and documents related specifically to quality improvement activities undertaken by the licensed entity.

(2) Health care provider groups of five or more providers may maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice as set forth in RCW 70.41.200. For purposes of this section, a health care provider group may be a consortium of providers consisting of five or more providers in total. All such programs shall comply with the requirements of RCW 70.41.200(1) (a), (c), (d), (e), (f), (g), and (h) as modified to reflect the structural organization of the health care provider group. All such programs must be approved by the department before the discovery limitations provided in subsections (3) and (4) of this section and the exemption under RCW 42.56.360(1)(c) and subsection (5) of this section shall apply.

(3) Any person who, in substantial good faith, provides information to further the purposes of the quality improvement and medical malpractice prevention program or who, in substantial good faith, participates on the quality improvement

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committee shall not be subject to an action for civil damages or other relief as a result of such activity. Any person or entity participating in a coordinated quality improvement program that, in substantial good faith, shares information or documents with one or more other programs, committees, or boards under subsection (6) of this section is not subject to an action for civil damages or other relief as a result of the activity or its consequences. For the purposes of this section, sharing information is presumed to be in substantial good faith. However, the presumption may be rebutted upon a showing of clear, cogent, and convincing evidence that the information shared was knowingly false or deliberately misleading.

(4) Information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee are not subject to review or disclosure, except as provided in this section, or discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the testimony of any person concerning the facts that form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action challenging the termination of a contract by a state agency with any entity maintaining a coordinated quality improvement program under this section if the termination was on the basis of quality of care concerns, introduction into evidence of information created, collected, or maintained by the quality improvement committees of the subject entity, which may be under terms of a protective order as specified by the court; (e) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any and the reasons for the restrictions; or (f) in any civil action, discovery and introduction into evidence of the patient's medical records required by rule of the department of health to be made regarding the care and treatment received.

(5) Information and documents created specifically for, and collected and maintained by, a quality improvement committee are exempt from disclosure under chapter 42.56 RCW.

(6) A coordinated quality improvement program may share information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee or a peer review committee under RCW 4.24.250 with one or more other coordinated quality improvement programs maintained in accordance with this section or with RCW 70.41.200, a coordinated quality improvement committee maintained by an ambulatory surgical facility under section 8 of this act, a quality assurance committee maintained in accordance with RCW 18.20.390 or 74.42.640, or a peer review committee under RCW 4.24.250, for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice. The privacy protections of chapter 70.02 RCW and the federal health insurance portability and accountability act of 1996 and its implementing regulations apply to the sharing of individually identifiable patient information held by a coordinated quality improvement program. Any rules necessary to implement this section shall

meet the requirements of applicable federal and state privacy laws. Information and documents disclosed by one coordinated quality improvement program to another coordinated quality improvement program or a peer review committee under RCW 4.24.250 and any information and documents created or maintained as a result of the sharing of information and documents shall not be subject to the discovery process and confidentiality shall be respected as required by subsection (4) of this section and RCW 4.24.250.

(7) The department of health shall adopt rules as are necessary to implement this section.

Sec. 22. RCW 70.41.200 and 2005 c 291 s 3 and 2005 c 33 s 7 are each reenacted and amended to read as follows:

(1) Every hospital shall maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice. The program shall include at least the following:

(a) The establishment of a quality improvement committee with the responsibility to review the services rendered in the hospital, both retrospectively and prospectively, in order to improve the quality of medical care of patients and to prevent medical malpractice. The committee shall oversee and coordinate the quality improvement and medical malpractice prevention program and shall ensure that information gathered pursuant to the program is used to review and to revise hospital policies and procedures;

(b) A medical staff privileges sanction procedure through which credentials, physical and mental capacity, and competence in delivering health care services are periodically reviewed as part of an evaluation of staff privileges;

(c) The periodic review of the credentials, physical and mental capacity, and competence in delivering health care services of all persons who are employed or associated with the hospital;

(d) A procedure for the prompt resolution of grievances by patients or their representatives related to accidents, injuries, treatment, and other events that may result in claims of medical malpractice;

(e) The maintenance and continuous collection of information concerning the hospital's experience with negative health care outcomes and incidents injurious to patients, patient grievances, professional liability premiums, settlements, awards, costs incurred by the hospital for patient injury prevention, and safety improvement activities;

(f) The maintenance of relevant and appropriate information gathered pursuant to (a) through (e) of this subsection concerning individual physicians within the physician's personnel or credential file maintained by the hospital;

(g) Education programs dealing with quality improvement, patient safety, medication errors, injury prevention, staff responsibility to report professional misconduct, the legal aspects of patient care, improved communication with patients, and causes of malpractice claims for staff personnel engaged in patient care activities; and

(h) Policies to ensure compliance with the reporting requirements of this section.

(2) Any person who, in substantial good faith, provides information to further the purposes of the quality improvement and medical malpractice prevention program or who, in substantial good faith, participates on the quality improvement committee shall not be subject to an action for civil damages or other relief as a result of such activity. Any person or entity participating in a coordinated quality improvement program that, in substantial good faith, shares information or documents with one or more other programs, committees, or boards under subsection (8) of this section is not subject to an action for civil damages or other relief as a result of the activity. For the purposes of this section, sharing information is presumed to be in substantial good faith. However, the presumption may be rebutted upon a showing of clear, cogent, and convincing

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evidence that the information shared was knowingly false or deliberately misleading.

(3) Information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee are not subject to review or disclosure, except as provided in this section, or discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any and the reasons for the restrictions; or (e) in any civil action, discovery and introduction into evidence of the patient's medical records required by regulation of the department of health to be made regarding the care and treatment received.

(4) Each quality improvement committee shall, on at least a semiannual basis, report to the governing board of the hospital in which the committee is located. The report shall review the quality improvement activities conducted by the committee, and any actions taken as a result of those activities.

(5) The department of health shall adopt such rules as are deemed appropriate to effectuate the purposes of this section.

(6) The medical quality assurance commission or the board of osteopathic medicine and surgery, as appropriate, may review and audit the records of committee decisions in which a physician's privileges are terminated or restricted. Each hospital shall produce and make accessible to the commission or board the appropriate records and otherwise facilitate the review and audit. Information so gained shall not be subject to the discovery process and confidentiality shall be respected as required by subsection (3) of this section. Failure of a hospital to comply with this subsection is punishable by a civil penalty not to exceed two hundred fifty dollars.

(7) The department, the joint commission on accreditation of health care organizations, and any other accrediting organization may review and audit the records of a quality improvement committee or peer review committee in connection with their inspection and review of hospitals. Information so obtained shall not be subject to the discovery process, and confidentiality shall be respected as required by subsection (3) of this section. Each hospital shall produce and make accessible to the department the appropriate records and otherwise facilitate the review and audit.

(8) A coordinated quality improvement program may share information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee or a peer review committee under RCW 4.24.250 with one or more other coordinated quality improvement programs maintained in accordance with this section or RCW 43.70.510, a coordinated quality improvement committee maintained by an ambulatory surgical facility under section 8 of this act, a quality assurance committee maintained in accordance with RCW 18.20.390 or 74.42.640, or a peer review committee under RCW 4.24.250, for the improvement of the quality of health care services rendered

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to patients and the identification and prevention of medical malpractice. The privacy protections of chapter 70.02 RCW and the federal health insurance portability and accountability act of 1996 and its implementing regulations apply to the sharing of individually identifiable patient information held by a coordinated quality improvement program. Any rules necessary to implement this section shall meet the requirements of applicable federal and state privacy laws. Information and documents disclosed by one coordinated quality improvement program to another coordinated quality improvement program or a peer review committee under RCW 4.24.250 and any information and documents created or maintained as a result of the sharing of information and documents shall not be subject to the discovery process and confidentiality shall be respected as required by subsection (3) of this section, RCW 18.20.390 (6) and (8), 74.42.640 (7) and (9), and 4.24.250.

(9) A hospital that operates a nursing home as defined in RCW 18.51.010 may conduct quality improvement activities for both the hospital and the nursing home through a quality improvement committee under this section, and such activities shall be subject to the provisions of subsections (2) through (8) of this section.

(10) Violation of this section shall not be considered negligence per se.

Sec. 23. RCW 18.130.070 and 2006 c 99 s 2 are each amended to read as follows:

(1)(a) The secretary shall adopt rules requiring every license holder to report to the appropriate disciplining authority any conviction, determination, or finding that 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 or by an ambulatory surgical facility pursuant to section 12 of this act, 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

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(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 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, finding, or disqualification constitutes grounds for disciplinary action.

Sec. 24. RCW 18.71.0195 and 2005 c 274 s 227 are each amended to read as follows:

(1) The contents of any report filed under RCW 18.130.070 shall be confidential and exempt from public disclosure pursuant to chapter 42.56 RCW, except that it may be reviewed (a) by the licensee involved or his or her counsel or authorized representative who may submit any additional exculpatory or explanatory statements or other information, which statements or other information shall be included in the file, or (b) by a representative of the commission, or investigator thereof, who has been assigned to review the activities of a licensed physician.

Upon a determination that a report is without merit, the commission's records may be purged of information relating to the report.

(2) Every individual, medical association, medical society, hospital, ambulatory surgical facility, medical service bureau, health insurance carrier or agent, professional liability insurance carrier, professional standards review organization, agency of the federal, state, or local government, or the entity established by RCW 18.71.300 and its officers, agents, and employees are immune from civil liability, whether direct or derivative, for providing information to the commission under RCW 18.130.070, or for which an individual health care provider has immunity under the provisions of RCW 4.24.240, 4.24.250, or 4.24.260.

Sec. 25. RCW 42.56.360 and 2006 c 209 s 9 and 2006 c 8 s 112 are each reenacted and amended to read as follows:

(1) The following health care information is exempt from disclosure under this chapter:

(a) Information obtained by the board of pharmacy as provided in RCW 69.45.090;

(b) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420;

(c) Information and documents created specifically for, and collected and maintained by a quality improvement committee under RCW 43.70.510, section 9 of this act, or 70.41.200, or by a peer review committee under RCW 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640 or 18.20.390, and notifications or reports of adverse events or incidents made

under RCW 70.56.020 or 70.56.040, regardless of which agency is in possession of the information and documents;

(d)(i) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310;

(ii) If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this subsection (1)(d) as exempt from disclosure;

(iii) If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality;

(e) Records of the entity obtained in an action under RCW 18.71.300 through 18.71.340;

(f) Except for published statistical compilations and reports relating to the infant mortality review studies that do not identify individual cases and sources of information, any records or documents obtained, prepared, or maintained by the local health department for the purposes of an infant mortality review conducted by the department of health under RCW 70.05.170; and

(g) Complaints filed under chapter 18.130 RCW after July 27, 1997, to the extent provided in RCW 18.130.095(1).

(2) Chapter 70.02 RCW applies to public inspection and copying of health care information of patients.

Sec. 26. RCW 18.71.017 and 2000 c 171 s 23 are each amended to read as follows:

(1) The commission may adopt such rules as are not inconsistent with the laws of this state as may be determined necessary or proper to carry out the purposes of this chapter. The commission is the successor in interest of the board of medical examiners and the medical disciplinary board. All contracts, undertakings, agreements, rules, regulations, and policies continue in full force and effect on July 1, 1994, unless otherwise repealed or rejected by this chapter or by the commission.

(2) The commission may adopt rules governing the administration of sedation and anesthesia in the offices of persons licensed under this chapter, including necessary training and equipment.

Sec. 27. RCW 18.57.005 and 1986 c 259 s 94 are each amended to read as follows:

The board shall have the following powers and duties:

(1) To administer examinations to applicants for licensure under this chapter;

(2) To make such rules and regulations as are not inconsistent with the laws of this state as may be deemed necessary or proper to carry out the purposes of this chapter;

(3) To establish and administer requirements for continuing professional education as may be necessary or proper to insure the public health and safety as a prerequisite to granting and renewing licenses under this chapter: PROVIDED, That such rules shall not require a licensee under this chapter to engage in continuing education related to or provided by any specific branch, school, or philosophy of medical practice or its political and/or professional organizations, associations, or societies;

(4) To adopt rules governing the administration of sedation and anesthesia in the offices of persons licensed under this chapter, including necessary training and equipment;

(5) To keep an official record of all its proceedings, which record shall be evidence of all proceedings of the board which are set forth therein.

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Sec. 28. RCW 18.22.015 and 1990 c 147 s 5 are each amended to read as follows:

The board shall:

- (1) Administer all laws placed under its jurisdiction;
- (2) Prepare, grade, and administer or determine the nature, grading, and administration of examinations for applicants for podiatric physician and surgeon licenses;
- (3) Examine and investigate all applicants for podiatric physician and surgeon licenses and certify to the secretary all applicants it judges to be properly qualified;
- (4) Adopt any rules which it considers necessary or proper to carry out the purposes of this chapter;
- (5) Adopt rules governing the administration of sedation and anesthesia in the offices of persons licensed under this chapter, including necessary training and equipment;
- (6) Determine which schools of podiatric medicine and surgery will be approved.

NEW SECTION. Sec. 29. Except for section 7 of this act, this act takes effect July 1, 2009.

NEW SECTION. Sec. 30. The secretary of health may take the necessary steps to ensure that this act is implemented on its effective date.

NEW SECTION. Sec. 31. Sections 1 through 6 and 8 through 19 of this act constitute a new chapter in Title 70 RCW."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care to Engrossed Substitute House Bill No. 1414.

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 "facilities;" strike the remainder of the title and insert "amending RCW 70.56.010, 18.130.070, 18.71.0195, 18.71.017, 18.57.005, and 18.22.015; reenacting and amending RCW 43.70.510, 70.41.200, and 42.56.360; adding a new chapter to Title 70 RCW; creating new sections; prescribing penalties; and providing an effective date."

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute House Bill No. 1414 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 Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1414 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1414 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 Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon,

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Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 48

Voting nay: Senator Swecker - 1

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1414 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. 1319, by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives O'Brien, Pearson, Dickerson, Blake, Kenney and Ormsby)

Protecting employees, contract staff, and volunteers of a correctional agency from stalking.

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:

"**Sec. 1.** RCW 9A.46.110 and 2006 c 95 s 3 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

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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)(A) the stalker's victim is or was a law enforcement officer((?)); judge((?)); juror((?)); attorney((?)); victim advocate((?)); legislator((?)); community correction's officer((?)); an employee, contract staff person, or volunteer of a correctional agency; or an employee of the child protective, child welfare, or adult protective services division within the department of social and health services((?)); and (B) 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) "Correctional agency" means a person working for the department of natural resources in a correctional setting or any state, county, or municipally operated agency with the authority to direct the release of a person serving a sentence or term of confinement and includes but is not limited to the department of corrections, the indeterminate sentence review board, and the department of social and health services.

(b) "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)) (c) "Harasses" means unlawful harassment as defined in RCW 10.14.020.

((c)) (d) "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)) (e) "Repeatedly" means on two or more separate occasions."

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 Substitute House Bill No. 1319.

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 "stalking;" strike the remainder of the title and insert "and amending RCW 9A.46.110."

MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 1319 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 Substitute House Bill No. 1319 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1319 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 Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Absent: Senator Hewitt - 1

SUBSTITUTE HOUSE BILL NO. 1319 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 SUBSTITUTE HOUSE BILL NO. 1131, by House Committee on Appropriations (originally sponsored by Representatives Dunshee, Haler, Kenney, Fromhold, Priest, Roberts, Jarrett, Kagi, Hunt, McDermott, Haigh, Ormsby, Chase, Wallace, Hudgins, Schual-Berke, Simpson, Conway, Morrell, Moeller and Santos)

Creating the passport to college promise program.

The measure was read the second time.

MOTION

Senator Shin 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. (1)(a) The legislature finds that in Washington, there are more than seven thousand three hundred children in foster family or group care. These children face unique obstacles and burdens as they transition to adulthood, including lacking continuity in their elementary and high school educations. As compared to the general population of students, twice as many foster care youth change schools at least once during their elementary and secondary school careers, and three times as many change schools at least three times. Only thirty-four percent of foster care youth graduate from high school within four years, compared to seventy percent for the general population. Of the former foster care youth who earn a high school diploma, more than twenty-eight percent earn a GED instead of a traditional high school diploma. This is almost six times the rate of the general population. Research indicates that GED holders tend not to be as economically successful as the holders of traditional high school diplomas. Only twenty percent of former foster care youth who earn a high school degree enroll in college, compared to over sixty percent of the population generally. Of the former foster care youth who do enroll in college, very few go on to earn a degree. Less than two percent of former foster care youth hold bachelor's degrees, compared to twenty-eight percent of Washington's population generally.

(b) Former foster care youth face two critical hurdles to enrolling in college. The first is a lack of information regarding preparation for higher education and their options for enrolling in higher education. The second is finding the financial resources to fund their education. As a result of the unique hurdles and challenges that face former foster care youth, a disproportionate number of them are part of society's large

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group of marginalized youth and are at increased risk of continuing the cycle of poverty and violence that frequently plagues their families.

(c) Former foster care youth suffer from mental health problems at a rate greater than that of the general population. For example, one in four former foster care youth report having suffered from posttraumatic stress disorder within the previous twelve months, compared to only four percent of the general population. Similarly, the incidence of major depression among former foster care youth is twice that of the general population, twenty percent versus ten percent.

(d) There are other barriers for former foster care youth to achieving successful adulthood. One-third of former foster care youth live in households that are at or below the poverty level. This is three times the rate for the general population. The percentage of former foster care youth who report being homeless within one year of leaving foster care varies from over ten percent to almost twenty-five percent. By comparison, only one percent of the general population reports having been homeless at sometime during the past year. One in three former foster care youth lack health insurance, compared to less than one in five people in the general population. One in six former foster care youth receive cash public assistance. This is five times the rate of the general population.

(e) Approximately twenty-five percent of former foster care youth are incarcerated at sometime after leaving foster care. This is four times the rate of incarceration for the general population. Of the former foster care youth who "age out" of foster care, twenty-seven percent of the males and ten percent of the females are incarcerated within twelve to eighteen months of leaving foster care.

(f) Female former foster care youth become sexually active more than seven months earlier than their nonfoster care counterparts, have more sexual partners, and have a mean age of first pregnancy of almost two years earlier than their peers who were not in foster care.

(2) The legislature intends to create the passport to college promise pilot program. The pilot program will initially operate for a six-year period, and will have two primary components, as follows:

(a) Significantly increasing outreach to foster care youth between the ages of fourteen and eighteen regarding the higher education opportunities available to them, how to apply to college, and how to apply for and obtain financial aid; and

(b) Providing financial aid to former foster care youth to assist with the costs of their public undergraduate college education.

NEW SECTION. Sec. 2. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Cost of attendance" means the cost associated with attending a particular institution of higher education as determined by the higher education coordinating board, including but not limited to tuition, fees, room, board, books, personal expenses, and transportation, plus the cost of reasonable additional expenses incurred by an eligible student and approved by a financial aid administrator at the student's school of attendance.

(2) "Emancipated from foster care" means a person who was a dependent of the state in accordance with chapter 13.34 RCW and who was receiving foster care in the state of Washington when he or she reached his or her eighteenth birthday.

(3) "Financial need" means the difference between a student's cost of attendance and the student's total family contribution as determined by the method prescribed by the United States department of education.

(4) "Independent college or university" means a private, nonprofit institution of higher education, open to residents of the state, providing programs of education beyond the high school level leading to at least the baccalaureate degree, and accredited by the Northwest association of schools and colleges,

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and other institutions as may be developed that are approved by the higher education coordinating board as meeting equivalent standards as those institutions accredited under this section.

(5) "Institution of higher education" means:

(a) Any public university, college, community college, or technical college operated by the state of Washington or any political subdivision thereof; or

(b) Any independent college or university in Washington; or

(c) Any other university, college, school, or institute in the state of Washington offering instruction beyond the high school level that is a member institution of an accrediting association recognized by rule of the higher education coordinating board for the purposes of this section: PROVIDED, That any institution, branch, extension, or facility operating within the state of Washington that is affiliated with an institution operating in another state must be a separately accredited member institution of any such accrediting association, or a branch of a member institution of an accrediting association recognized by rule of the board for purposes of this section, that is eligible for federal student financial aid assistance and has operated as a nonprofit college or university delivering on-site classroom instruction for a minimum of twenty consecutive years within the state of Washington, and has an annual enrollment of at least seven hundred full-time equivalent students.

(6) "Program" means the passport to college promise pilot program created in this chapter.

NEW SECTION. Sec. 3. The passport to college promise pilot program is created. The purpose of the program is:

(1) To encourage current and former foster care youth to prepare for, attend, and successfully complete higher education; and

(2) To provide current and former foster care youth with the educational planning, information, institutional support, and direct financial resources necessary for them to succeed in higher education.

NEW SECTION. Sec. 4. (1) The higher education coordinating board shall design and, to the extent funds are appropriated for this purpose, implement, a program of supplemental scholarship and student assistance for students who have emancipated from the state foster care system after having spent at least one year in care.

(2) The board shall convene and consult with an advisory committee to assist with program design and implementation. The committee shall include but not be limited to former foster care youth and their advocates; representatives from the state board for community and technical colleges, and from public and private agencies that assist current and former foster care recipients in their transition to adulthood; and student support specialists from public and private colleges and universities.

(3) To the extent that sufficient funds have been appropriated for this purpose, a student is eligible for assistance under this section if he or she:

(a) Emancipated from foster care on or after January 1, 2007, after having spent at least one year in foster care subsequent to his or her sixteenth birthday;

(b) Is a resident student, as defined in RCW 28B.15.012(2);

(c) Is enrolled with or will enroll on at least a half-time basis with an institution of higher education in Washington state by the age of twenty-one;

(d) Is making satisfactory academic progress toward the completion of a degree or certificate program, if receiving supplemental scholarship assistance;

(e) Has not earned a bachelor's or professional degree; and

(f) Is not pursuing a degree in theology.

(4) A passport to college scholarship under this section:

(a) Shall not exceed resident undergraduate tuition and fees at the highest-priced public institution of higher education in the state; and

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(b) Shall not exceed the student's financial need, less a reasonable self-help amount defined by the board, when combined with all other public and private grant, scholarship, and waiver assistance the student receives.

(5) An eligible student may receive a passport to college scholarship under this section for a maximum of five years after the student first enrolls with an institution of higher education or until the student turns age twenty-six, whichever occurs first. If a student turns age twenty-six during an academic year, and would otherwise be eligible for a scholarship under this section, the student shall continue to be eligible for a scholarship for the remainder of the academic year.

(6) The higher education coordinating board, in consultation with and with assistance from the state board for community and technical colleges, shall perform an annual analysis to verify that those institutions of higher education at which students have received a scholarship under this section have awarded the student all available need-based and merit-based grant and scholarship aid for which the student qualifies.

(7) In designing and implementing the passport to college student support program under this section, the board, in consultation with and with assistance from the state board for community and technical colleges, shall ensure that a participating college or university:

(a) Has a viable plan for identifying students eligible for assistance under this section, for tracking and enhancing their academic progress, for addressing their unique needs for assistance during school vacations and academic interims, and for linking them to appropriate sources of assistance in their transition to adulthood;

(b) Receives financial and other incentives for achieving measurable progress in the recruitment, retention, and graduation of eligible students.

NEW SECTION. Sec. 5. Effective operation of the passport to college promise pilot program requires early and accurate identification of former foster care youth so that they can be linked to the financial and other assistance that will help them succeed in college. To that end:

(1) All institutions of higher education that receive funding for student support services under section 4 of this act shall include on their applications for admission or on their registration materials a question asking whether the applicant has been in foster care in Washington state for at least one year since his or her sixteenth birthday. All other institutions of higher education are strongly encouraged to include such a question. No institution may consider whether an applicant may be eligible for a scholarship or student support services under this chapter when deciding whether the applicant will be granted admission.

(2) The department of social and health services shall devise and implement procedures for efficiently, promptly, and accurately identifying students and applicants who are eligible for services under section 4 of this act, and for sharing that information with the higher education coordinating board and with institutions of higher education. The procedures shall include appropriate safeguards for consent by the applicant or student before disclosure.

NEW SECTION. Sec. 6. (1) To the extent funds are appropriated for this purpose, the higher education coordinating board, with input from the state board for community and technical colleges, the foster care partnership, and institutions of higher education, shall develop and maintain an internet web site and outreach program to serve as a comprehensive portal for foster care youth in Washington state to obtain information regarding higher education including, but not necessarily limited to:

(a) Academic, social, family, financial, and logistical information important to successful postsecondary educational success;

(b) How and when to obtain and complete college applications;

(c) What college placement tests, if any, are generally required for admission to college and when and how to register for such tests;

(d) How and when to obtain and complete a federal free application for federal student aid (FAFSA); and

(e) Detailed sources of financial aid likely available to eligible former foster care youth, including the financial aid provided by this chapter.

(2) The board shall determine whether to design, build, and operate such program and web site directly or to use, support, and modify existing web sites created by government or nongovernmental entities for a similar purpose.

NEW SECTION. Sec. 7. (1) To the extent funds are appropriated for this purpose, the department of social and health services, with input from the state board for community and technical colleges, the higher education coordinating board, and institutions of higher education, shall contract with at least one nongovernmental entity through a request for proposals process to develop, implement, and administer a program of supplemental educational transition planning for youth in foster care in Washington state.

(2) The nongovernmental entity or entities chosen by the department shall have demonstrated success in working with foster care youth and assisting foster care youth in successfully making the transition from foster care to independent adulthood.

(3) The selected nongovernmental entity or entities shall provide supplemental educational transition planning to foster care youth in Washington state beginning at age fourteen and then at least every six months thereafter. The supplemental transition planning shall include:

(a) Comprehensive information regarding postsecondary educational opportunities including, but not limited to, sources of financial aid, institutional characteristics and record of support for former foster care youth, transportation, housing, and other logistical considerations;

(b) How and when to apply to postsecondary educational programs;

(c) What precollege tests, if any, the particular foster care youth should take based on his or her postsecondary plans and when to take the tests;

(d) What courses to take to prepare the particular foster care youth to succeed at his or her postsecondary plans;

(e) Social, community, educational, logistical, and other issues that frequently impact college students and their success rates; and

(f) Which web sites, nongovernmental entities, public agencies, and other foster care youth support providers specialize in which services.

(4) The selected nongovernmental entity or entities shall work directly with the school counselors at the foster care youths' high schools to ensure that a consistent and complete transition plan has been prepared for each foster care youth who emancipates out of the foster care system in Washington state.

NEW SECTION. Sec. 8. (1) The higher education coordinating board shall report to appropriate committees of the legislature by January 15, 2008, on the status of program design and implementation. The report shall include a discussion of proposed scholarship and student support service approaches; an estimate of the number of students who will receive such services; baseline information on the extent to which former foster care youth who meet the eligibility criteria in section 4 of this act have enrolled and persisted in postsecondary education; and recommendations for any statutory changes needed to promote achievement of program objectives.

(2) The state board for community and technical colleges and the higher education coordinating board shall monitor and analyze the extent to which eligible young people are increasing their participation, persistence, and progress in postsecondary education, and shall jointly submit a report on their findings to appropriate committees of the legislature by December 1, 2009, and by December 1, 2011.

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(3) The Washington state institute for public policy shall complete an evaluation of the passport to college promise pilot program and shall submit a report to appropriate committees of the legislature by December 1, 2012. The report shall estimate the impact of the program on eligible students' participation and success in postsecondary education, and shall include recommendations for program revision and improvement.

NEW SECTION. Sec. 9. Nothing in this chapter may be construed to:

(1) Guarantee acceptance by, or entrance into, any institution of higher education; or

(2) Limit the participation of youth, in or formerly in, foster care in Washington state in any other program of financial assistance for postsecondary education.

NEW SECTION. Sec. 10. This chapter expires June 30, 2013.

NEW SECTION. Sec. 11. Sections 1 through 10 of this act constitute a new chapter in Title 28B RCW."

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. 1131.

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

MOTION

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

On page 1, line 3 of the title, after "purpose;" strike the remainder of the title and insert "adding a new chapter to Title 28B RCW; and providing an expiration date."

MOTION

On motion of Senator Shin, the rules were suspended, Engrossed Substitute House Bill No. 1131 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 Shin, Kilmer and Jacobsen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1131 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1131 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Voting nay: Senators McCaslin and Morton - 2

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1131 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. 1456, by House Committee on Appropriations (originally sponsored by Representatives Green, Hinkle, Appleton, Cody, Moeller, Strow, Crouse, Curtis, Seaquist, Jarrett, Hasegawa, Walsh, P. Sullivan, Buri, Simpson, O'Brien, Lantz, Hunt, McDonald, Sells, Schual-Berke, Linville, Kessler, Hankins, Haler, Skinner, Campbell, Morrell, Darneille, Armstrong, Dunshee, Fromhold, Kagi, Williams, Conway, Barlow, Grant, Priest, Dunn, Hunter, Hurst, Ericks, Pearson, Anderson, Clibborn, Pettigrew, Flannigan, Lovick, Dickerson, Kenney, Ormsby, Haigh, Wood, Rolfes, Santos and McDermott)

Providing backup for mental health professionals doing home visits.

The measure was read the second time.

MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 1456 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator Brandland, Senator Zarelli was excused.

MOTION

On motion of Senator Regala, Senators Brown, Poulsen and Prentice were excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1456.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1456 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom and Weinstein - 45

Excused: Senators Brown, Poulsen, Prentice and Zarelli - 4

SUBSTITUTE HOUSE BILL NO. 1456, 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. 1501, by Representatives Wood, Conway, Williams, Chase, Kenney and Moeller

Concerning adjustments to industrial insurance total disability compensation reductions.

The measure was read the second time.

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MOTION

On motion of Senator Kohl-Welles, the rules were suspended, House Bill No. 1501 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Cements 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. 1501.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1501 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom and Weinstein - 45

Excused: Senators Brown, Poulsen, Prentice and Zarelli - 4

HOUSE BILL NO. 1501, 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. 1565, by House Committee on Early Learning & Children's Services (originally sponsored by Representatives Kagi, Dickerson and Kenney)

Revising provisions relating to public access to child in need of services and at-risk youth hearings.

The measure was read the second time.

MOTION

On motion of Senator Regala, the rules were suspended, Substitute House Bill No. 1565 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Regala spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1565.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1565 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom and Weinstein - 45

Excused: Senators Brown, Poulsen, Prentice and Zarelli - 4

SUBSTITUTE HOUSE BILL NO. 1565, 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, 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 11:58 a.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 1:17 p.m. by President Owen.

SECOND READING

ENGROSSED HOUSE BILL NO. 1667, by Representatives Green, Cody, Morrell, Ormsby, Moeller and Simpson

Regarding fairness and equity in health professions licensing fees.

The measure was read the second time.

MOTION

Senator Keiser 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. By January 1, 2008, the department of health shall submit to the appropriate policy and fiscal committees of the legislature an evaluation of the economic benefits to the state's health care system of the midwifery licensure and regulatory program under chapter 18.50 RCW. In particular, the evaluation shall determine whether these economic benefits exceed the state expenditures to subsidize the cost of the licensing and regulatory program under RCW 43.70.250. The report may also examine the effectiveness of a credentialing surcharge to (1) reduce the variation in levels of credentialing fees paid by health care providers regulated by the department, (2) provide greater equity in credentialing fee amounts, and (3) increase the number of health care providers in those professions. This section expires on January 1, 2008." On page 1, line 2 of the title, strike "amending RCW 43.70.250;"

The President declared the question before the Senate to be the motion by Senator Keiser to not adopt the committee striking amendment by the Committee on Ways & Means to Engrossed House Bill No. 1667.

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

MOTION

Senator Keiser moved that the following striking amendment by Senators Oemig and Pridemore be adopted:

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Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. By January 1, 2008, the department of health shall submit to the appropriate policy and fiscal committees of the legislature an evaluation of the economic benefits to the state's health care system of the midwifery licensure and regulatory program under chapter 18.50 RCW. In particular, the department shall contract with a consultant to conduct a review of existing research literature on whether these economic benefits exceed the state expenditures to subsidize the cost of the midwifery licensing and regulatory program under RCW 43.70.250. The evaluation shall include an assessment of the economic benefits to consumers who elect out-of-hospital births with midwives, including any reduced use of procedures that increase the costs of childbirth. Furthermore, the study shall identify the reasons for the high per-licensee costs of the midwifery licensure and regulatory program. To the extent such costs are the result of department of health investigations of midwives, the study shall identify the nature of the initiating complainant (including categories such as birth parent, other family members, other licensed midwives, certified midwives, obstetricians, gynecologists, other health care professional, paramedics, and department of health) for each investigation conducted during the previous three years, and whether the birth parents supported or opposed the investigation. The department shall identify the outcome and estimated costs of each such investigation, the average cost to the defending midwife of the investigations, and for the midwives whose licenses were not revoked, whether the midwife elected to continue seeking licensure in the subsequent two years.

The report may also examine the effectiveness of a health professions credentialing surcharge to (1) reduce the variation in levels of credentialing fees paid by health care providers regulated by the department, (2) provide greater equity in credentialing fee amounts, and (3) increase the number of health care providers in those professions. This section expires on January 1, 2008."

Senator Keiser 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 Oemig and Pridemore to Engrossed House Bill No. 1667.

The motion by Senator Keiser 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, strike "amending RCW 43.70.250;"

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed House Bill No. 1667 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 Pflug spoke in favor of passage of the bill.

MOTION

On motion of Senator Brandland, Senators Carrell, Roach and Zarelli were excused.

MOTION

On motion of Senator Regala, Senator Poulsen was excused.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1667 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1667 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 2; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom and Weinstein - 45

Absent: Senators McAuliffe and Prentice - 2

Excused: Senators Poulsen and Zarelli - 2

ENGROSSED HOUSE BILL NO. 1667 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. 1098, by House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Hinkle, Schual-Berke, Campbell, Morrell, Green, Darneille, Ormsby, B. Sullivan, Dickerson, Kenney, Moeller and Wallace)

Authorizing suspension of restriction on the availability of vaccines during outbreaks.

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 70.95M.115 and 2006 c 231 s 2 are each amended to read as follows:

(1) Beginning July 1, 2007, a person who is known to be pregnant or who is under three years of age shall not be vaccinated with a mercury-containing vaccine or injected with a mercury-containing product that contains more than 0.5 micrograms of mercury per 0.5 milliliter dose.

(2) Notwithstanding subsection (1) of this section, an influenza vaccine may contain up to 1.0 micrograms of mercury per 0.5 milliliter dose.

(3) The secretary of the department of health may, upon the secretary's or local public health officer's declaration of ~~((a public health emergency))~~ an outbreak of vaccine-preventable disease or of a shortage of vaccine that complies with subsection (1) or (2) of this section, suspend the requirements of this section for the duration of the ~~((emergency))~~ outbreak or shortage.

(4) A person who is known to be pregnant or a parent or legal guardian of a child under three years of age shall be informed if the person or child is to be vaccinated or injected with any mercury-containing product that contains more than

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the mercury limits per dose in subsections (1) and (2) of this section.

(5) All vaccines and products referenced under this section must meet food and drug administration licensing requirements."

On page 1, line 1 of the title, after "outbreaks;" strike the remainder of the title and insert "and amending RCW 70.95M.115."

MOTION

Senator Oemig moved that the following amendment by Senators Oemig and Rasmussen to the committee striking amendment be adopted.

On page 1, beginning on line 19 of the amendment, after "(4)" strike all material through "section" on line 23, and insert "Any person who is to be vaccinated or injected with any mercury-containing product that contains more than the mercury limits per dose in subsections (1) and (2) of this section shall be informed before receiving such a vaccine or injection"

Senators Oemig, Roach, Rasmussen, Fairley, Pflug spoke in favor of adoption of the amendment to the committee striking amendment.

Senators Keiser, Franklin spoke against the amendment to the committee striking amendment.

POINT OF ORDER

Senator Keiser: "Mr. President, I believe that the amendment before us is beyond the scope and object of the bill which does deal with 'An act relating to vaccines during outbreaks'"

Senator Oemig spoke against the point of order.

MOTION

On motion of Senator Eide, further consideration of Substitute House Bill No. 1098 was deferred and the bill held its place on the second reading calendar.

SECOND READING

HOUSE BILL NO. 1084, by Representatives Blake, VanDeWege, Kessler, Takko, Morrell, Curtis, Eickmeyer, Moeller, McCoy, Pettigrew, Haigh, Simpson, Lantz, Upthegrove, B. Sullivan, Linville, Hunt, Conway, Kenney, Wallace and Santos

Designating the Lady Washington as the official ship of the state of Washington.

The measure was read the second time.

MOTION

On motion of Senator Fairley, the rules were suspended, House Bill No. 1084 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fairley, Hatfield and Honeyford spoke in favor of passage of the bill.

MOTION

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

The President declared the question before the Senate to be the final passage of House Bill No. 1084.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1084 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 1; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom and Weinstein - 44

Voting nay: Senator Kilmer - 1

Excused: Senators Brown, Poulsen, Pridemore and Zarelli - 4

HOUSE BILL NO. 1084, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Mr. Les Bolton, Captain of the Lady Washington and Executive Director to the Grays Harbor Historical Seaport Authority who were seated in the gallery.

PERSONAL PRIVILEGE

Senator Brandland: "Last night I wanted to raise a point of personal privilege and we ran out of time. Yesterday was a pretty important event for me, a pretty important time in my life because on April 10, 1970, I walked into Denny's Restaurant and met my bride. I kind of get choked up talking about this, stuff even after thirty-seven years. I'd like you to know though she didn't like me at first, you don't either I know. There's another well-kept secret that I have not told many people about but when I went to meet her father he called me a stringbean. I can't say that I can use that sort of label anymore. Anyway, this is a very, very special time for me. This is a very, very special lady for me and I just wanted to let you all know about it."

SECOND READING

HOUSE BILL NO. 1416, by Representatives Grant, Chandler, Linville, Newhouse, Warnick and VanDeWege

Extending an asparagus exception to the standards for fruits and vegetables.

The measure was read the second time.

MOTION

On motion of Senator Rasmussen, the rules were suspended, House Bill No. 1416 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rasmussen 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. 1416.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1416 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Excused: Senators Brown, Poulsen and Pridemore - 3

HOUSE BILL NO. 1416, 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 JOINT RESOLUTION NO. 4215, by House Committee on Capital Budget (originally sponsored by Representatives Kenney, Sells, Buri, Hunt and Wood)

Eliminating prohibitions on the investment of certain state moneys.

The measure was read the second time.

MOTION

On motion of Senator Fraser, the rules were suspended, Substitute House Joint Resolution No. 4215 was advanced to third reading, the second reading considered the third and the resolution was placed on final passage.

Senators Fraser, Schoesler and Marr spoke in favor of passage of the resolution.

MOTION

On motion of Senator Regala, Senator McAuliffe was excused.

The President declared the question before the Senate to be the final passage of Substitute House Joint Resolution No. 4215.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Joint Resolution No. 4215 and the resolution passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 45

Excused: Senators Brown, McAuliffe, Poulsen and Pridemore - 4

SUBSTITUTE HOUSE JOINT RESOLUTION NO. 4215, having received the constitutional majority, was declared passed.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1784, by House Committee on Capital Budget (originally sponsored by Representatives Kenney, Sells, Buri and Wood)

Eliminating limitations on the investment of certain state moneys.

The measure was read the second time.

MOTION

On motion of Senator Fraser, the rules were suspended, Substitute House Bill No. 1784 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 Substitute House Bill No. 1784.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1784 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Poulsen and Pridemore - 2

SUBSTITUTE HOUSE BILL NO. 1784, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 2:10 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 4:26 p.m. by President Owen.

MOTION

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

MESSAGE FROM THE HOUSE

April 10, 2007

MR. PRESIDENT:

The House has passed the following bills:
 SUBSTITUTE SENATE BILL NO. 5336,
 SUBSTITUTE SENATE BILL NO. 5445,
 SUBSTITUTE SENATE BILL NO. 5972,
 SUBSTITUTE SENATE BILL NO. 5984
 SENATE JOINT RESOLUTION NO. 8212,
 and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

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MESSAGE FROM THE HOUSE

April 10, 2007

MR. PRESIDENT:

The House has passed the following bills:
 SENATE BILL NO. 6014,
 SUBSTITUTE SENATE BILL NO. 5676,
 and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

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

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1968, by House Committee on Commerce & Labor (originally sponsored by Representatives Simpson, Conway and Ormsby)

Requiring certification for sprinkler fitters.

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Substitute House Bill No. 1968 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.

Senator Clements spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1968.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1968 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 13; Absent, 2; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Oemig, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Shin, Spanel, Stevens, Tom and Weinstein - 34

Voting nay: Senators Clements, Delvin, Hewitt, Holmquist, Honeyford, McCaslin, Morton, Parlette, Pflug, Schoesler, Sheldon, Swecker and Zarelli - 13

Absent: Senators Haugen and Murray - 2

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1968, 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. 1939, by Representatives Goodman, Warnick, Rodne, Williams, Priest, Moeller, B. Sullivan, Cody, Chase, Pedersen, Lantz and Hinkle

Modifying privileged communications provisions.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 1939 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. 1939.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1939 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 2; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Absent: Senators Haugen and Murray - 2

HOUSE BILL NO. 1939, 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 Regala, Senators Haugen and Murray were excused.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1039, by House Committee on Select Committee on Environmental Health (originally sponsored by Representatives B. Sullivan, Kenney and Chase)

Allowing the department of ecology to issue opinions for a portion of a facility under the model toxics control act.

The measure was read the second time.

MOTION

On motion of Senator Rockefeller, the rules were suspended, Substitute House Bill No. 1039 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rockefeller 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. 1039.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1039 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser,

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Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SUBSTITUTE HOUSE BILL NO. 1039, 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 Benton, the notice by Senator Benton to reconsider the vote by which House Bill No. 1166 pass the Senate was withdrawn.

MOTION

On motion of Senator Eide, House Bill No. 1166 was immediately transmitted to the House of Representatives.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1009, by House Committee on Appropriations (originally sponsored by Representatives Moeller, Wallace, Linville, Wood and Dickerson)

Establishing work groups to periodically review and update the child support schedule.

The measure was read the second time.

MOTION

On motion of Senator Hargrove, the rules were suspended, Second Substitute House Bill No. 1009 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 Second Substitute House Bill No. 1009.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1009 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SECOND SUBSTITUTE HOUSE BILL NO. 1009, 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

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HOUSE BILL NO. 1666, by Representatives Green, Conway, Morrell, Cody, Ormsby, Schual-Berke, Moeller and Simpson

Repealing the expiration provision in the act authorizing nurse practitioners to treat those covered by industrial insurance.

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, House Bill No. 1666 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Clements spoke in favor of passage of the bill.

MOTION

On motion of Senator Regala, Senator McAuliffe was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 1666.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1666 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

HOUSE BILL NO. 1666, 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. 1338, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives P. Sullivan, Newhouse, B. Sullivan and Santos)

Authorizing the Washington beer commission to receive gifts, grants, and endowments.

The measure was read the second time.

MOTION

On motion of Senator Rasmussen, the rules were suspended, Substitute House Bill No. 1338 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rasmussen 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. 1338.

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The measure was read the second time.

The Secretary called the roll on the final passage of Substitute House Bill No. 1338 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SUBSTITUTE HOUSE BILL NO. 1338, 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. 1645, by Representatives Pedersen, Curtis, Schual-Berke, Ormsby and Moeller

Authorizing the administrator of the health care authority to administer grants on behalf of the authority.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, House Bill No. 1645 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser 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. 1645.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1645 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

HOUSE BILL NO. 1645, 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. 1646, by House Committee on Agriculture & Natural Resources (originally sponsored by Representative Blake)

Authorizing department of fish and wildlife employees to sample fish, wildlife, and shellfish.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature intends that sampling of fish, wildlife, and shellfish by department of fish and wildlife employees will ensure the conservation and management of fish, shellfish, and wildlife. Because the harvest of fish and wildlife is regulated by the department, the legislature finds that sampling by departmental employees will benefit the resource, and will further the department's research related to fish, wildlife, and shellfish. This section and section 2 of this act do not apply to the harvest of private sector cultured aquatic products as defined in RCW 15.85.020.

NEW SECTION. Sec. 2. A new section is added to chapter 77.12 RCW to read as follows:

(1) Department employees, in carrying out their duties under this title on public lands or state waters, may:

(a) Collect samples of tissue, fluids, or other bodily parts of fish, wildlife, or shellfish; or

(b) Board vessels in state waters engaged in commercial and recreational harvest activities to collect samples of fish, wildlife, or shellfish.

(i) Department employees shall ask permission from the owner or his or her agent before boarding vessels in state waters.

(ii) If an employee of the department is denied access to any vessel where access was sought for the purposes of (b) of this subsection, the department employee may contact an enforcement officer for assistance in applying for a search warrant authorizing access to the vessel in order to carry out the department employee's duties under this section.

(2) Department employees must have official identification, announce their presence and intent, and perform their duties in a safe and professional manner while carrying out the activities in this section.

(3) This section does not apply to the harvest of private sector cultured aquatic products as defined in RCW 15.85.020.

(4) This section does not apply to fish and wildlife officers and ex officio fish and wildlife officers carrying out their duties under this title.

Sec. 3. RCW 77.15.360 and 2000 c 107 s 243 are each amended to read as follows:

(1) A person is guilty of unlawful interfering in department operations if the person prevents department employees from carrying out duties authorized by this title, including but not limited to interfering:

(a) In the operation of department vehicles, vessels, or aircraft; or

(b) With the collection of samples of tissue, fluids, or other bodily parts of fish, wildlife, and shellfish under section 2 of this act.

(2) Unlawful interfering in department operations is a gross misdemeanor.

Sec. 4. RCW 77.15.568 and 2003 c 336 s 1 are each amended to read as follows:

~~((Since violation of rules of the department relating to the accounting of the commercial harvest of food fish, commercialized game fish, and shellfish result in damage to the resources of the state, persons selling such fish and shellfish at retail, including but not limited to stores, markets, and restaurants, must maintain sufficient records for the department to be able to ascertain the origin of the fish and shellfish in their possession.~~

~~(1) A retail fish seller is guilty of retail fish seller's failure to account for commercial harvest if the retail seller sells fish or~~

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shellfish at retail, the fish or shellfish were required to be entered on a Washington state fish receiving ticket, the seller is not a wholesale fish dealer or fisher selling under a direct retail sale endorsement, and the seller fails to maintain sufficient records at the location where the fish or shellfish are being sold to determine the following:

— (a) The name of the wholesale fish dealer or fisher selling under a direct retail sale endorsement from whom the fish were purchased;

— (b) The wholesale fish dealer's license number or the number of the fisher's sale under a direct retail sale endorsement;

— (c) The fish receiving ticket number documenting original receipt, if known;

— (d) The date of purchase; and

— (e) The amount of fish or shellfish originally purchased from the wholesale dealer or fisher selling under a direct retail sale endorsement.

— (2) A retail fish seller's failure to account for commercial harvest is a misdemeanor.)

(1) A person is guilty of a secondary commercial fish receiver's failure to account for commercial harvest if:

(a) The person sells fish or shellfish at retail, stores or holds fish or shellfish for another in exchange for valuable consideration, ships fish or shellfish in exchange for valuable consideration, or brokers fish or shellfish in exchange for valuable consideration;

(b) The fish or shellfish were required to be entered on a Washington fish receiving ticket or a Washington aquatic farm production annual report; and

(c) The person fails to maintain records of each receipt of fish or shellfish, as required under subsections (3) through (5) of this section, at the location where the fish or shellfish are being sold, at the location where the fish or shellfish are being stored or held, or at the principal place of business of the shipper or broker.

(2) This section does not apply to a wholesale fish dealer, a fisher selling under a direct retail sale endorsement, or a registered aquatic farmer.

(3) Records of the receipt of fish or shellfish required to be kept under this section must be in the English language and be maintained for three years from the date fish or shellfish are received, shipped, or brokered.

(4) Records maintained by persons that retail or broker must include the following:

(a) The name, address, and phone number of the wholesale fish dealer, fisher selling under a direct retail sale endorsement, or aquatic farmer or shellstock shipper from whom the fish or shellfish were purchased or received;

(b) The Washington fish receiving ticket number documenting original receipt or aquatic farm production quarterly report documenting production, if available;

(c) The date of purchase or receipt; and

(d) The amount and species of fish or shellfish purchased or received.

(5) Records maintained by persons that store, hold, or ship fish or shellfish for others must state the following:

(a) The name, address, and phone number of the person and business from whom the fish or shellfish were received;

(b) The date of receipt; and

(c) The amount and species of fish or shellfish received.

(6) A secondary commercial fish receiver's failure to account for commercial harvest is a misdemeanor."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Natural Resources, Ocean & Recreation to Substitute House Bill No. 1646.

The motion by Senator Jacobsen 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 "employees;" strike the remainder of the title and insert "amending RCW 77.15.360 and 77.15.568; adding a new section to chapter 77.12 RCW; creating a new section; and prescribing penalties."

MOTION

On motion of Senator Jacobsen, the rules were suspended, Substitute House Bill No. 1646 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1646 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1646 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 3; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Voting nay: Senators Holmquist, Honeyford and Sheldon -

3

SUBSTITUTE HOUSE BILL NO. 1646 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. 2115, by House Committee on Capital Budget (originally sponsored by Representatives Newhouse, Lantz, B. Sullivan, Hailey, Grant, VanDeWege, Warnick, Kelley, Pedersen, Appleton, Quall, Seaquist, Hunt, Simpson, McDermott and Ormsby)

Creating the heritage barn preservation program.

The measure was read the second time.

MOTION

Senator Rasmussen 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 historic barns are essential symbols of Washington's heritage representing a pioneering spirit of industriousness. Important for their association with broad patterns of agricultural history and community development and as examples of distinct architectural styles and methods of construction, historic barns

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serve as highly visible icons for local residents and visitors alike. The legislature acknowledges that factors such as changes in the agricultural economy and farming technologies, prohibitive rehabilitation costs, development pressures, and regulations restricting new uses, collectively work to endanger historic barns statewide and contribute to their falling into decay or being demolished altogether.

As historic barns represent irreplaceable resources, and recognizing that barn preservation will work to retain these structures as functional and economically viable elements of working lands, the purpose of this act is to create a system acknowledging heritage barns statewide that provides emergency assistance to heritage barn owners through matching grants, assesses the need for long-term barn preservation, and considers additional incentives and regulatory revisions that work toward the preservation of heritage barns as integral components of Washington's historic landscapes.

NEW SECTION. Sec. 2. (1) The Washington state heritage barn preservation program is created in the department.

(2) The director, in consultation with the heritage barn preservation advisory board, shall conduct a thematic study of Washington state's barns. The study shall include a determination of types, an assessment of the most unique and significant barns in the state, and a condition and needs assessment of historic barns in the state.

(3)(a) The department, in consultation with the heritage barn preservation advisory board, shall establish a heritage barn recognition program. To apply for recognition as a heritage barn, the barn owner shall supply to the department photos of the barn, photos of the farm and surrounding landscape, a brief history of the farm, and a construction date for the barn.

(b) Three times a year, the governor's advisory council on historic places shall review the list of barns submitted by the department for formal recognition as a heritage barn.

(4) Eligible applicants for heritage barn preservation fund awards include property owners, nonprofit organizations, and local governments.

(5) To apply for support from the heritage barn preservation fund, an applicant must submit an application to the department in a form prescribed by the department. Applicants must provide at least fifty percent of the cost of the project through in-kind labor, the applicant's own moneys, or other funding sources.

(6) The following types of projects are eligible for funding:

(a) Stabilization of endangered heritage barns and related agricultural buildings, including but not limited to repairs to foundations, sills, windows, walls, structural framework, and the repair and replacement of roofs; and

(b) Work that preserves the historic character, features, and materials of a historic barn.

(7) In making awards, the advisory board shall consider the following criteria:

(a) Relative historical and cultural significance of the barn;

(b) Urgency of the threat and need for repair;

(c) Extent to which the project preserves historic character and extends the useful life of the barn or associated agricultural building;

(d) Visibility of the barn from a state designated scenic byway or other publicly traveled way;

(e) Extent to which the project leverages other sources of financial assistance;

(f) Provision for long-term preservation;

(g) Readiness of the applicant to initiate and complete the project; and

(h) Extent to which the project contributes to the equitable geographic distribution of heritage barn preservation fund awards across the state.

(8) In awarding funds, special consideration shall be given to barns that are:

(a) Still in agricultural use;

(b) Listed on the national register of historic places; or

(c) Outstanding examples of their type or era.

(9) The conditions in this subsection must be met by recipients of funding in order to satisfy the public benefit requirements of the heritage barn preservation program.

(a) Recipients must execute a contract with the department before commencing work. The contract must include a historic preservation easement for between five to fifteen years depending on the amount of the award. The contract must specify public benefit and minimum maintenance requirements.

(b) Recipients must proactively maintain their historic barn for a minimum of ten years.

(c) Public access to the exterior of properties that are not visible from a public right-of-way must be provided under reasonable terms and circumstances, including the requirement that visits by nonprofit organizations or school groups must be offered at least one day per year.

(10) All work must comply with the United States secretary of the interior's standards for the rehabilitation of historic properties; however, exceptions may be made for the retention or installation of metal roofs on a case-by-case basis.

(11) The heritage barn preservation fund shall be acknowledged on any materials produced and in publicity for the project. A sign acknowledging the fund shall be posted at the worksite for the duration of the preservation agreement.

(12) Projects must be initiated within one year of funding approval and completed within two years, unless an extension is provided by the department in writing.

(13) If a recipient of a heritage barn preservation fund award, or subsequent owner of a property that was assisted by the fund, takes any action within ten years of the funding award with respect to the assisted property such as dismantlement, removal, or substantial alteration, which causes it to be no longer eligible for listing in the Washington heritage register, the fund shall be repaid in full within one year.

NEW SECTION. Sec. 3. (1) The director shall establish a Washington state heritage barn preservation advisory board that includes:

(a) Two members representing owners of heritage barns nominated by recognized agricultural organizations;

(b) The chair of the advisory council, or the chair's designee;

(c) A representative of a statewide historic preservation organization;

(d) A representative of a county heritage commission that is recognized by the department as a certified local government;

(e) Two elected county officials, one appointed by the Washington state association of counties and one appointed by the Washington association of county officials;

(f) A representative of a private foundation with an interest in the preservation of barns;

(g) A representative of a land trust that is experienced with easements; and

(h) At least one at-large member with appropriate expertise in barn architecture, architectural history, construction, engineering, or a related field.

(2) The director may invite representatives of federal agencies that have barn preservation programs or expertise to participate on the advisory board, who shall serve as ex-officio members.

(3) The director shall work to assure that the advisory board members are from diverse geographic regions of the state. The director may serve as chair, or appoint a person to serve as chair.

(4) The advisory board shall provide advice to the director regarding:

(a) The criteria for designation of heritage barns;

(b) The criteria for determining eligibility for grant funds including contracting provisions between the department and grant recipients. In developing this criteria, the department and the advisory board shall consult with the state attorney general; and

(c) The criteria for awarding grants for barn rehabilitation.

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(5) The advisory board shall examine regulatory issues that impose constraints on the ability to use heritage barns for contemporary economically productive purposes including building and land use codes.

(6) By December 1, 2010, the department shall provide a final report to appropriate committees of the legislature that summarizes the accomplishments of the program, addresses regulatory issues examined under subsection (5) of this section, and makes final recommendations.

(7) This section expires December 31, 2010.

NEW SECTION. Sec. 4. (1) The heritage barn preservation fund is created as an account in the state treasury. All receipts from appropriations and private sources must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only to provide assistance to owners of heritage barns in Washington state in the stabilization and restoration of their barns so that these historic properties may continue to serve the community.

(2) The department shall minimize the amount of funds that are used for program administration, which shall include consultation with the department of general administration's barrier-free facilities program for input regarding accessibility for people with disabilities where public access to historic barns is permitted.

(3) The primary public benefit of funding through the heritage barn preservation program is the preservation and enhancement of significant historic properties that provide economic benefit to the state's citizens and enrich communities throughout the state.

Sec. 5. RCW 27.34.020 and 2005 c 333 s 13 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Advisory council" means the advisory council on historic preservation.

(2) "Department" means the department of archaeology and historic preservation.

(3) "Director" means the director of the department of archaeology and historic preservation.

(4) "Federal act" means the national historic preservation act of 1966 (Public Law 89-655; 80 Stat. 915).

(5) "Heritage barn" means any large agricultural outbuilding used to house animals, crops, or farm equipment, that is over fifty years old and has been determined by the department to: (a) Be eligible for listing on the Washington heritage register or the national register of historic places; or (b) have been listed on a local historic register and approved by the advisory council. In addition to barns, "heritage barn" includes agricultural resources such as milk houses, sheds, silos, or other outbuildings, that are historically associated with the working life of the farm or ranch, if these outbuildings are on the same property as a heritage barn.

(6) "Heritage council" means the Washington state heritage council.

~~((6))~~ (7) "Historic preservation" includes the protection, rehabilitation, restoration, identification, scientific excavation, and reconstruction of districts, sites, buildings, structures, and objects significant in American and Washington state history, architecture, archaeology, or culture.

~~((7))~~ (8) "Preservation officer" means the state historic preservation officer as provided for in RCW 43.334.020.

~~((8))~~ (9) "Project" means programs leading to the preservation for public benefit of historical properties, whether by state and local governments or other public bodies, or private organizations or individuals, including the acquisition of title or interests in, and the development of, any district, site, building, structure, or object that is significant in American and Washington state history, architecture, archaeology, or culture, and property used in connection therewith, or for its development.

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~~((9))~~ (10) "State historical agencies" means the state historical societies and the department.

~~((10))~~ (11) "State historical societies" means the Washington state historical society and the eastern Washington state historical society.

~~((11))~~ (12) "Cultural resource management plan" means a comprehensive plan which identifies and organizes information on the state of Washington's historic, archaeological, and architectural resources into a set of management criteria, and which is to be used for producing reliable decisions, recommendations, and advice relative to the identification, evaluation, and protection of these resources.

NEW SECTION. Sec. 6. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2007, in the omnibus appropriations act, this act is null and void.

NEW SECTION. Sec. 7. Sections 2 through 4 of this act are each added to chapter 27.34 RCW."

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. 2115.

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

MOTION

On motion of Senator Rasmussen, the rules were suspended, Substitute House Bill No. 2115 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator Regala, Senator Kastama was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2115 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2115 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker and Zarelli - 46

Voting nay: Senators Tom and Weinstein - 2

Excused: Senator Kastama - 1

SUBSTITUTE HOUSE BILL NO. 2115 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

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ENGROSSED SUBSTITUTE HOUSE BILL NO. 1008, by House Committee on Judiciary (originally sponsored by Representatives Moeller, Lovick, Kagi, Cody, Appleton, Conway, Morrell, Kenney, Simpson, B. Sullivan, Goodman and Lantz)

Protecting vulnerable adults.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 74.34.020 and 2006 c 339 s 109 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Abandonment" means action or inaction by a person or entity with a duty of care for a vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

(2) "Abuse" means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a vulnerable adult. In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, and exploitation of a vulnerable adult, which have the following meanings:

(a) "Sexual abuse" means any form of nonconsensual sexual contact, including but not limited to unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual abuse includes any sexual contact between a staff person, who is not also a resident or client, of a facility or a staff person of a program authorized under chapter 71A.12 RCW, and a vulnerable adult living in that facility or receiving service from a program authorized under chapter 71A.12 RCW, whether or not it is consensual.

(b) "Physical abuse" means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, prodding, or the use of chemical restraints or physical restraints unless the restraints are consistent with licensing requirements, and includes restraints that are otherwise being used inappropriately.

(c) "Mental abuse" means any willful action or inaction of mental or verbal abuse. Mental abuse includes, but is not limited to, coercion, harassment, inappropriately isolating a vulnerable adult from family, friends, or regular activity, and verbal assault that includes ridiculing, intimidating, yelling, or swearing.

(d) "Exploitation" means an act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another.

(3) "Consent" means express written consent granted after the vulnerable adult or his or her legal representative has been fully informed of the nature of the services to be offered and that the receipt of services is voluntary.

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

(5) "Facility" means a residence licensed or required to be licensed under chapter 18.20 RCW, boarding homes; chapter 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes; chapter 72.36 RCW, soldiers' homes; or chapter 71A.20

RCW, residential habilitation centers; or any other facility licensed by the department.

(6) "Financial exploitation" means the illegal or improper use of the property, income, resources, or trust funds of the vulnerable adult by any person for any person's profit or advantage other than for the vulnerable adult's profit or advantage.

(7) "Incapacitated person" means a person who is at a significant risk of personal or financial harm under RCW 11.88.010(1) (a), (b), (c), or (d).

(8) "Individual provider" means a person under contract with the department to provide services in the home under chapter 74.09 or 74.39A RCW.

~~((8))~~ (9) "Interested person" means a person who demonstrates to the court's satisfaction that the person is interested in the welfare of the vulnerable adult, that the person has a good faith belief that the court's intervention is necessary, and that the vulnerable adult is unable, due to incapacity, undue influence, or duress at the time the petition is filed, to protect his or her own interests.

(10) "Mandated reporter" is an employee of the department; law enforcement officer; social worker; professional school personnel; individual provider; an employee of a facility; an operator of a facility; an employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency; county coroner or medical examiner; Christian Science practitioner; or health care provider subject to chapter 18.130 RCW.

~~((9))~~ (11) "Neglect" means (a) a pattern of conduct or inaction by a person or entity with a duty of care that fails to provide the goods and services that maintain physical or mental health of a vulnerable adult, or that fails to avoid or prevent physical or mental harm or pain to a vulnerable adult; or (b) an act or omission that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the vulnerable adult's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100.

~~((10))~~ (12) "Permissive reporter" means any person, including, but not limited to, an employee of a financial institution, attorney, or volunteer in a facility or program providing services for vulnerable adults.

~~((11))~~ (13) "Protective services" means any services provided by the department to a vulnerable adult with the consent of the vulnerable adult, or the legal representative of the vulnerable adult, who has been abandoned, abused, financially exploited, neglected, or in a state of self-neglect. These services may include, but are not limited to case management, social casework, home care, placement, arranging for medical evaluations, psychological evaluations, day care, or referral for legal assistance.

~~((12))~~ (14) "Self-neglect" means the failure of a vulnerable adult, not living in a facility, to provide for himself or herself the goods and services necessary for the vulnerable adult's physical or mental health, and the absence of which impairs or threatens the vulnerable adult's well-being. This definition may include a vulnerable adult who is receiving services through home health, hospice, or a home care agency, or an individual provider when the neglect is not a result of inaction by that agency or individual provider.

~~((13))~~ (15) "Vulnerable adult" includes a person:

(a) Sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself; or

(b) Found incapacitated under chapter 11.88 RCW; or

(c) Who has a developmental disability as defined under RCW 71A.10.020; or

(d) Admitted to any facility; or

(e) Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW; or

(f) Receiving services from an individual provider.

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Sec. 2. RCW 74.34.067 and 1999 c 176 s 9 are each amended to read as follows:

(1) Where appropriate, an investigation by the department may include a private interview with the vulnerable adult regarding the alleged abandonment, abuse, financial exploitation, neglect, or self-neglect.

(2) In conducting the investigation, the department shall interview the complainant, unless anonymous, and shall use its best efforts to interview the vulnerable adult or adults harmed, and, consistent with the protection of the vulnerable adult shall interview facility staff, any available independent sources of relevant information, including if appropriate the family members of the vulnerable adult.

(3) The department may conduct ongoing case planning and consultation with: (a) Those persons or agencies required to report under this chapter or submit a report under this chapter; (b) consultants designated by the department; and (c) designated representatives of Washington Indian tribes if client information exchanged is pertinent to cases under investigation or the provision of protective services. Information considered privileged by statute and not directly related to reports required by this chapter must not be divulged without a valid written waiver of the privilege.

(4) The department shall prepare and keep on file a report of each investigation conducted by the department for a period of time in accordance with policies established by the department.

(5) If the department ~~((determines))~~ has reason to believe that the vulnerable adult has suffered from abuse, neglect, self-neglect, abandonment, or financial exploitation, and lacks the ability or capacity to consent, and needs the protection of a guardian, the department may bring a guardianship action under chapter 11.88 RCW ~~((as an interested person))~~.

(6) When the investigation is completed and the department determines that an incident of abandonment, abuse, financial exploitation, neglect, or self-neglect has occurred, the department shall inform the vulnerable adult of their right to refuse protective services, and ensure that, if necessary, appropriate protective services are provided to the vulnerable adult, with the consent of the vulnerable adult. The vulnerable adult has the right to withdraw or refuse protective services.

(7) The department may photograph a vulnerable adult or their environment for the purpose of providing documentary evidence of the physical condition of the vulnerable adult or his or her environment. When photographing the vulnerable adult, the department shall obtain permission from the vulnerable adult or his or her legal representative unless immediate photographing is necessary to preserve evidence. However, if the legal representative is alleged to have abused, neglected, abandoned, or exploited the vulnerable adult, consent from the legal representative is not necessary. No such consent is necessary when photographing the physical environment.

(8) When the investigation is complete and the department determines that the incident of abandonment, abuse, financial exploitation, or neglect has occurred, the department shall inform the facility in which the incident occurred, consistent with confidentiality requirements concerning the vulnerable adult, witnesses, and complainants.

Sec. 3. RCW 74.34.110 and 1999 c 176 s 12 are each amended to read as follows:

An action known as a petition for an order for protection of a vulnerable adult in cases of abandonment, abuse, financial exploitation, or neglect is created.

(1) A vulnerable adult, or interested person on behalf of the vulnerable adult, may seek relief from abandonment, abuse, financial exploitation, or neglect, or the threat thereof, by filing a petition for an order for protection in superior court.

(2) A petition shall allege that the petitioner, or person on whose behalf the petition is brought, is a vulnerable adult and that the petitioner, or person on whose behalf the petition is brought, has been abandoned, abused, financially exploited, or

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neglected, or is threatened with abandonment, abuse, financial exploitation, or neglect by respondent.

(3) A petition shall be accompanied by affidavit made under oath, or a declaration signed under penalty of perjury, stating the specific facts and circumstances which demonstrate the need for the relief sought. If the petition is filed by an interested person, the affidavit or declaration must also include a statement of why the petitioner qualifies as an interested person.

(4) A petition for an order may be made whether or not there is a pending lawsuit, complaint, petition, or other action ~~((between the parties))~~ pending that relates to the issues presented in the petition for an order for protection.

(5) Within ninety days of receipt of the master copy from the administrative office of the courts, all court clerk's offices shall make available the standardized forms and instructions required by section 4 of this act.

(6) Any assistance or information provided by any person, including, but not limited to, court clerks, employees of the department, and other court facilitators, to another to complete the forms provided by the court in subsection (5) of this section does not constitute the practice of law.

(7) A petitioner is not required to post bond to obtain relief in any proceeding under this section.

~~((6))~~ (8) An action under this section shall be filed in the county where the ~~((petitioner))~~ vulnerable adult resides; except that if the ~~((petitioner))~~ vulnerable adult has left or been removed from the residence as a result of abandonment, abuse, financial exploitation, or neglect, or in order to avoid abandonment, abuse, financial exploitation, or neglect, the petitioner may bring an action in the county of either the vulnerable adult's previous or new residence.

~~((7))~~ The filing fee for the petition may be waived at the discretion of the court.

(9) No filing fee may be charged to the petitioner for proceedings under this section. Standard forms and written instructions shall be provided free of charge.

NEW SECTION. Sec. 4. A new section is added to chapter 74.34 RCW to read as follows:

(1) The administrative office of the courts shall develop and prepare standard petition, temporary order for protection, and permanent order for protection forms, a standard notice form to provide notice to the vulnerable adult if the vulnerable adult is not the petitioner, instructions, and a court staff handbook on the protection order process. The standard petition and order for protection forms must be used after October 1, 2007, for all petitions filed and orders issued under this chapter. The administrative office of the courts, in preparing the instructions, forms, notice, and handbook, may consult with attorneys from the elder law section of the Washington state bar association, judges, the department, the Washington protection and advocacy system, and law enforcement personnel.

(a) The instructions shall be designed to assist petitioners in completing the petition, and shall include a sample of the standard petition and order for protection forms.

(b) The order for protection form shall include, in a conspicuous location, notice of criminal penalties resulting from violation of the order.

(c) The standard notice form shall be designed to explain to the vulnerable adult in clear, plain language the purpose and nature of the petition and that the vulnerable adult has the right to participate in the hearing and to either support or object to the petition.

(2) The administrative office of the courts shall distribute a master copy of the standard forms, instructions, and court staff handbook to all court clerks and shall distribute a master copy of the standard forms to all superior, district, and municipal courts.

(3) The administrative office of the courts shall determine the significant non-English-speaking or limited-English-speaking populations in the state. The administrator shall then arrange for translation of the instructions required by this section, which shall contain a sample of the standard forms, into

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the languages spoken by those significant non-English-speaking populations, and shall distribute a master copy of the translated instructions to all court clerks by December 31, 2007.

(4) The administrative office of the courts shall update the instructions, standard forms, and court staff handbook when changes in the law make an update necessary. The updates may be made in consultation with the persons and entities specified in subsection (1) of this section.

(5) For purposes of this section, "court clerks" means court administrators in courts of limited jurisdiction and elected court clerks.

Sec. 5. RCW 74.34.120 and 1986 c 187 s 6 are each amended to read as follows:

(1) The court shall order a hearing on a petition under RCW 74.34.110 not later than fourteen days from the date of filing the petition.

(2) Personal service shall be made upon the respondent not less than ~~((five))~~ six court days before the hearing. When good faith attempts to personally serve the respondent have been unsuccessful, the court shall permit service by mail or by publication.

(3) When a petition under RCW 74.34.110 is filed by someone other than the vulnerable adult, notice of the petition and hearing must be personally served upon the vulnerable adult not less than six court days before the hearing. In addition to copies of all pleadings filed by the petitioner, the petitioner shall provide a written notice to the vulnerable adult using the standard notice form developed under section 4 of this act. When good faith attempts to personally serve the vulnerable adult have been unsuccessful, the court shall permit service by mail, or by publication if the court determines that personal service and service by mail cannot be obtained.

(4) If timely service under subsections (2) and (3) of this section cannot be made, the court ~~((may set a new hearing date))~~ shall continue the hearing date until the substitute service approved by the court has been satisfied.

(5)(a) A petitioner may move for temporary relief under chapter 7.40 RCW. The court may continue any temporary order for protection granted under chapter 7.40 RCW until the hearing on a petition under RCW 74.34.110 is held.

(b) Written notice of the request for temporary relief must be provided to the respondent, and to the vulnerable adult if someone other than the vulnerable adult filed the petition. A temporary protection order may be granted without written notice to the respondent and vulnerable adult if it clearly appears from specific facts shown by affidavit or declaration that immediate and irreparable injury, loss, or damage would result to the vulnerable adult before the respondent and vulnerable adult can be served and heard, or that show the respondent and vulnerable adult cannot be served with notice, the efforts made to serve them, and the reasons why prior notice should not be required.

Sec. 6. RCW 74.34.130 and 2000 c 119 s 27 and 2000 c 51 s 2 are each reenacted and amended to read as follows:

The court may order relief as it deems necessary for the protection of the ~~((petitioner))~~ vulnerable adult, including, but not limited to the following:

(1) Restraining respondent from committing acts of abandonment, abuse, neglect, or financial exploitation against the vulnerable adult;

(2) Excluding the respondent from ~~((petitioner's))~~ the vulnerable adult's residence for a specified period or until further order of the court;

(3) Prohibiting contact with the vulnerable adult by respondent for a specified period or until further order of the court;

(4) Prohibiting the respondent from knowingly coming within, or knowingly remaining within, a specified distance from a specified location;

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(5) Requiring an accounting by respondent of the disposition of ~~((petitioner's))~~ the vulnerable adult's income or other resources;

(6) Restraining the transfer of the respondent's and/or vulnerable adult's property for a specified period not exceeding ninety days; and

(7) Requiring the respondent to pay ~~((the))~~ a filing fee and court costs, including service fees, and to reimburse the petitioner for costs incurred in bringing the action, including a reasonable attorney's fee.

Any relief granted by an order for protection, other than a judgment for costs, shall be for a fixed period not to exceed ~~((one year))~~ five years. The clerk of the court shall enter any order for protection issued under this section into the judicial information system.

Sec. 7. RCW 74.34.145 and 2000 c 119 s 2 are each amended to read as follows:

(1) An order for protection of a vulnerable adult issued under this chapter which restrains the respondent or another person from committing acts of abuse, prohibits contact with the ~~((petitioner))~~ vulnerable adult, excludes the person from any specified location, or prohibits the person from coming within a specified distance from a location, shall prominently bear on the front page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(2) Whenever an order for protection of a vulnerable adult is issued under this chapter, and the respondent or person to be restrained knows of the order, a violation of a provision restraining the person from committing acts of abuse, prohibiting contact with the ~~((petitioner))~~ vulnerable adult, excluding the person from any specified location, or prohibiting the person from coming within a specified distance of a location, shall be punishable under RCW 26.50.110, regardless of whether the person is a family or household member as defined in RCW 26.50.010.

Sec. 8. RCW 74.34.150 and 1986 c 187 s 9 are each amended to read as follows:

The department of social and health services, in its discretion, may seek relief under RCW 74.34.110 through 74.34.140 on behalf of and with the consent of any vulnerable adult. When the department has reason to believe a vulnerable adult lacks the ability or capacity to consent, the department, in its discretion, may seek relief under RCW 74.34.110 through 74.34.140 on behalf of the vulnerable adult. Neither the department of social and health services nor the state of Washington shall be liable for ~~((failure))~~ seeking or failing to seek relief on behalf of any persons under this section.

NEW SECTION. Sec. 9. A new section is added to chapter 74.34 RCW to read as follows:

(1) When a petition for protection under RCW 74.34.110 is filed by someone other than the vulnerable adult or the vulnerable adult's full guardian over either the person or the estate, or both, and the vulnerable adult for whom protection is sought advises the court at the hearing that he or she does not want all or part of the protection sought in the petition, then the court may dismiss the petition or the provisions that the vulnerable adult objects to and any protection order issued under RCW 74.34.120 or 74.34.130, or the court may take additional testimony or evidence, or order additional evidentiary hearings to determine whether the vulnerable adult is unable, due to incapacity, undue influence, or duress, to protect his or her person or estate in connection with the issues raised in the petition or order. If an additional evidentiary hearing is ordered and the court determines that there is reason to believe that there is a genuine issue about whether the vulnerable adult is unable to protect his or her person or estate in connection with the issues raised in the petition or order, the court may issue a temporary order for protection of the vulnerable adult pending a decision after the evidentiary hearing.

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(2) An evidentiary hearing on the issue of whether the vulnerable adult is unable, due to incapacity, undue influence, or duress, to protect his or her person or estate in connection with the issues raised in the petition or order, shall be held within fourteen days of entry of the temporary order for protection under subsection (1) of this section. If the court did not enter a temporary order for protection, the evidentiary hearing shall be held within fourteen days of the prior hearing on the petition. Notice of the time and place of the evidentiary hearing shall be personally served upon the vulnerable adult and the respondent not less than six court days before the hearing. When good faith attempts to personally serve the vulnerable adult and the respondent have been unsuccessful, the court shall permit service by mail, or by publication if the court determines that personal service and service by mail cannot be obtained. If timely service cannot be made, the court may set a new hearing date. A hearing under this subsection is not necessary if the vulnerable adult has been determined to be fully incapacitated over either the person or the estate, or both, under the guardianship laws, chapter 11.88 RCW. If a hearing is scheduled under this subsection, the protection order shall remain in effect pending the court's decision at the subsequent hearing.

(3) At the hearing scheduled by the court, the court shall give the vulnerable adult, the respondent, the petitioner, and in the court's discretion other interested persons, the opportunity to testify and submit relevant evidence.

(4) If the court determines that the vulnerable adult is capable of protecting his or her person or estate in connection with the issues raised in the petition, and the individual continues to object to the protection order, the court shall dismiss the order or may modify the order if agreed to by the vulnerable adult. If the court determines that the vulnerable adult is not capable of protecting his or her person or estate in connection with the issues raised in the petition or order, and that the individual continues to need protection, the court shall order relief consistent with RCW 74.34.130 as it deems necessary for the protection of the vulnerable adult. In the entry of any order that is inconsistent with the expressed wishes of the vulnerable adult, the court's order shall be governed by the legislative findings contained in RCW 74.34.005.

NEW SECTION. Sec. 10. A new section is added to chapter 74.34 RCW to read as follows:

Any vulnerable adult who has not been adjudicated fully incapacitated under chapter 11.88 RCW, or the vulnerable adult's guardian, at any time subsequent to entry of a permanent protection order under this chapter, may apply to the court for an order to modify or vacate the order. In a hearing on an application to dismiss or modify the protection order, the court shall grant such relief consistent with RCW 74.34.110 as it deems necessary for the protection of the vulnerable adult, including dismissal or modification of the protection order.

Sec. 11. RCW 74.34.210 and 1995 1st sp.s. c 18 s 86 are each amended to read as follows:

A petition for an order for protection ~~((or))~~ may be brought by the vulnerable adult, the vulnerable adult's guardian or legal fiduciary, the department, or any interested person as defined in RCW 74.34.020. An action for damages under this chapter may be brought by the ~~((plaintiff))~~ vulnerable adult, or where necessary, by his or her family members and/or guardian or legal fiduciary ~~((, or as otherwise provided under this chapter))~~. The death of the ~~((plaintiff))~~ vulnerable adult shall not deprive the court of jurisdiction over a petition or claim brought under this chapter. Upon petition, after the death of the vulnerable ~~((person))~~ adult, the right to initiate or maintain the action shall be transferred to the executor or administrator of the deceased, for recovery of all damages for the benefit of the ((surviving spouse, child or children, or other heirs)) deceased person's beneficiaries set forth in chapter 4.20 RCW or if there are no beneficiaries, then for recovery of all economic losses sustained by the deceased person's estate."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary to Engrossed Substitute House Bill No. 1008.

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

MOTION

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

On page 1, line 1 of the title, after "adults;" strike the remainder of the title and insert "amending RCW 74.34.020, 74.34.067, 74.34.110, 74.34.120, 74.34.145, 74.34.150, and 74.34.210; reenacting and amending RCW 74.34.130; and adding new sections to chapter 74.34 RCW."

MOTION

On motion of Senator Kline, the rules were suspended, Engrossed Substitute House Bill No. 1008 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1008 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1008 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 Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Excused: Senator Kastama - 1

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1008 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.

PARLIAMENTARY INQUIRY

Senator Delvin: "could you clarify that the two display boards on both sides of the chambers are kept up to date on what motion we're at and everything. Just so we know we're accurate when those things display that for the members. That that's where we are in the order of things."

REPLY BY THE PRESIDENT

President Owen: "The President believes that they have been. Do you want me to clarify it? Ok, they are being kept up."

MOTION

At 5:34 p.m., on motion of Senator Eide, the Senate was recessed until 6:30 p.m.

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MOTION

The Senate was called to order at 6:30 p.m. by President Owen.

On motion of Senator Regala, Senator Hargrove was excused.

SECOND READING

The President declared the question before the Senate to be the final passage of House Bill No. 2004 as amended by the Senate.

HOUSE BILL NO. 2004, by Representatives Rolfes, Armstrong, Eddy, Appleton, Clibborn and Jarrett

ROLL CALL

Providing comprehensive membership of significant jurisdictions on the executive board of regional transportation planning organizations.

The Secretary called the roll on the final passage of House Bill No. 2004 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 41; Nays, 3; Absent, 3; Excused, 2.

The measure was read the second time.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Spanel, Stevens, Swecker, Tom and Weinstein - 41

MOTION

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

Voting nay: Senators Haugen, Murray and Shin - 3

Strike everything after the enacting clause and insert the following:

Absent: Senators Brown, Poulsen and Zarelli - 3

"Sec. 1. RCW 47.80.060 and 2005 c 334 s 1 are each amended to read as follows:

Excused: Senators Delvin and Hargrove - 2

In order to qualify for state planning funds available to regional transportation planning organizations, the regional transportation planning organizations containing any county with a population in excess of one million shall provide voting membership on its executive board to the state transportation commission, the state department of transportation, ~~((and))~~ the four largest public port districts within the region as determined by gross operating revenues, any incorporated principal city of a metropolitan statistical area within the region, as designated by the United States census bureau, and any incorporated city within the region with a population in excess of eighty thousand. It shall further assure that at least fifty percent of the county and city local elected officials who serve on the executive board also serve on transit agency boards or on a regional transit authority."

HOUSE BILL NO. 2004 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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to House Bill No. 2004.

On motion of Senator Regala, Senators Brown and Poulsen was excused.

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

MOTION

MOTION

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

On motion of Senator Brandland, Senator Zarelli was excused.

On page 1, line 3 of the title, after "organizations;" strike the remainder of the title and insert "and amending RCW 47.80.060."

SECOND READING

MOTION

On motion of Senator Murray, the rules were suspended, House Bill No. 2004 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

SECOND SUBSTITUTE HOUSE BILL NO. 1811, by House Committee on Finance (originally sponsored by Representatives Pedersen, Simpson, Wood, Moeller and Quall)

Regarding automatic sprinkler systems in nightclubs.

The measure was read the second time.

MOTION

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

Senator Kohl-Welles 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 19.27.500 and 2005 c 148 s 1 are each amended to read as follows:

~~(1) The building code council shall adopt rules ((by December 1, 2005;))~~ requiring that all nightclubs be provided with an automatic sprinkler system. Rules adopted by the council shall consider applicable nationally recognized fire and building code standards and local conditions and require that the automatic sprinkler systems be installed by December 1, 2009.

~~((By December 15, 2005;))~~ (2) The council shall transmit to the fire protection policy board copies of the rules as adopted.

MOTION

On motion of Senator Brandland, Senators Carrell and Delvin were excused.

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The fire protection policy board shall respond to the council ~~((by February 15, 2006))~~ within sixty days after receipt of the rules. If changes are recommended by the fire protection policy board the council shall immediately consider those changes to the rules through its rule-making procedures. ~~((The rules shall be effective December 1, 2007.))~~

Sec. 2. RCW 19.27.510 and 2005 c 148 s 2 are each amended to read as follows:

As used in this chapter:

"Nightclub" means an ~~((establishment, other than a theater with fixed seating, which is characterized by all of the following:~~

~~— (1) Provides live entertainment by paid performing artists or by way of recorded music conducted by a person employed or engaged to do so;~~

~~— (2) Has as its primary source of revenue (a) the sale of beverages of any kind for consumption on the premises, (b) cover charges, or (c) both; and~~

~~— (3) Has an occupant load of one hundred or more where the occupant load for any portion of the occupancy is calculated at one person per ten square feet or less, excluding the entry foyer)~~ A-2 occupancy use under the 2006 international building code in which the aggregate area of concentrated use of unfixed chairs and standing space that is specifically designated and primarily used for dancing or viewing performers exceeds three hundred fifty square feet, excluding adjacent lobby areas. "Nightclub" does not include theaters with fixed seating, banquet halls, or lodge halls.

Sec. 3. RCW 84.36.660 and 2005 c 148 s 4 are each amended to read as follows:

(1) Prior to installation of an automatic sprinkler system under RCW 19.27.500 through 19.27.520, an owner or lessee of property who meets the requirements of this section may apply to the assessor of the county in which the property is located for a special property tax exemption. This application shall be made upon forms prescribed by the department of revenue and supplied by the county assessor.

(a)(i) If a lessee of the property has paid for all expenses associated with the installation and purchase of the automatic sprinkler system, then the benefit of the exemption must inure to the lessee.

(ii) A lessee, otherwise eligible to receive the benefit of the exemption under this section, is entitled to receive such benefit only to the extent that the lessee maintains a valid lease agreement with the property owner for the property in which the automatic sprinkler system was installed pursuant to RCW 19.27.500.

(b) An exemption may be granted under this section only to the property owner or lessee that pays for all expenses associated with the installation and purchase of the automatic sprinkler system. In no event may both the property owner and the lessee receive an exemption under this section in the same calendar year for the installation and purchase of the same automatic sprinkler system.

(c) After December 31, 2009, no new application for a special tax exemption under this section may be: Made by a property owner or lessee; or accepted by the county assessor.

(2) As used in this chapter, "special property tax exemption" means the determination of the assessed value of the property subtracting, for ten years, the increase in value attributable to the installation of an automatic sprinkler system under RCW 19.27.500 through 19.27.520.

(3) The county assessor shall, for ten consecutive assessment years following the calendar year in which application is made, place a special property tax exemption on property classified as eligible.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2007."

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Senator Kohl-Welles 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 Second Substitute House Bill No. 1811.

The motion by Senator Kohl-Welles 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 "nightclubs;" strike the remainder of the title and insert "amending RCW 19.27.500, 19.27.510, and 84.36.660; providing an effective date; and declaring an emergency."

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Second Substitute House Bill No. 1811 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 Kohl-Welles and Clements 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. 1811 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1811 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Brown and Delvin - 2

SECOND SUBSTITUTE HOUSE BILL NO. 1811 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. 1574, by House Committee on Commerce & Labor (originally sponsored by Representatives Wood, Conway, Hudgins, Condotta, Moeller and Kenney)

Modifying provisions concerning the uniform regulation of business and professions.

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 1574 was advanced to

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third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Clements 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. 1574.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1574 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Brown and Delvin - 2

SUBSTITUTE HOUSE BILL NO. 1574, 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

SENATE BILL NO. 6167, by Senators Pridemore, Zarelli and Prentice

Clarifying the director's authority to determine interest in certain public retirement systems.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, Senate Bill No. 6167 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6167.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6167 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Brown and Delvin - 2

SENATE BILL NO. 6167, 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 House Bill No. 1430 which had been held on second reading on April 6, 2007.

MOTION

On motion of Senator Kastama, the rules were suspended, House Bill No. 1430 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. 1430.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1430 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Brown and Delvin - 2

HOUSE BILL NO. 1430, 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. 1648, by Representatives B. Sullivan, Kretz, Grant, Linville and Strow

Increasing protections for agricultural operations, activities, and practices.

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 not adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that agricultural activities are often subjected to nuisance lawsuits. The legislature also finds that such lawsuits hasten premature conversion of agricultural lands to other uses. The legislature further finds that agricultural activities must be able to adopt new technologies and diversify into new crops and products if the agricultural industry is to survive and agricultural lands are to be conserved. Therefore, the legislature intends to enhance the protection of agricultural activities from nuisance lawsuits, and to further the clear legislative directive of the state growth management act to maintain and enhance the agricultural industry and conserve productive agricultural lands.

Sec. 2. RCW 7.48.305 and 1992 c 151 s 1 and 1992 c 52 s 3 are each reenacted and amended to read as follows:

Notwithstanding any other provision of this chapter, agricultural activities conducted on farmland and forest practices, if consistent with good agricultural and forest practices and established prior to surrounding nonagricultural and nonforestry activities, are presumed to be reasonable and

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shall not be found to constitute a nuisance unless the activity or practice has a substantial adverse effect on ~~((the))~~ public health and safety.

If those agricultural activities and forest practices are undertaken in conformity with all applicable laws and rules, ~~((the activities))~~ they are presumed to be good agricultural and forest practices not adversely affecting the public health and safety for purposes of this section and RCW 7.48.300. An agricultural activity that is in conformity with such laws and rules shall not be restricted as to the hours of the day or day or days of the week during which it may be conducted.

Nothing in this section shall affect or impair any right to sue for damages.

Sec. 3. RCW 7.48.310 and 1992 c 52 s 4 are each amended to read as follows:

As used in RCW 7.48.305:

(1) "Agricultural activity" means a condition or activity which occurs on a farm in connection with the commercial production of farm products and includes, but is not limited to, marketed produce at roadside stands or farm markets; noise; odors; dust; fumes; operation of machinery and irrigation pumps; movement, including, but not limited to, use of current county road ditches, streams, rivers, canals, and drains, and use of water for agricultural activities; ground and aerial application of seed, fertilizers, conditioners, and plant protection products; keeping of bees for production of agricultural or apicultural products; employment and use of labor; roadway movement of equipment and livestock; protection from damage by wildlife; prevention of trespass; construction and maintenance of buildings, fences, roads, bridges, ponds, drains, waterways, and similar features and maintenance of streambanks and watercourses; and conversion from one agricultural activity to another, including a change in the type of plant-related farm product being produced. The term includes use of new practices and equipment consistent with technological development within the agricultural industry.

(2) "Farm" means the land, buildings, freshwater ponds, freshwater culturing and growing facilities, shellfish culturing and growing facilities, and machinery used in the commercial production of farm products.

(3) "Farmland" means land or freshwater ponds devoted primarily to the production, for commercial purposes, of livestock, freshwater aquacultural, shellfish aquacultural, or other ~~((agricultural commodities))~~ farm products.

(4) "Farm product" means those plants and animals useful to humans and includes, but is not limited to, forages and sod crops, dairy and dairy products, poultry and poultry products, livestock, including breeding, grazing, and recreational equine use, fruits, vegetables, flowers, seeds, grasses, trees, freshwater fish and fish products, shellfish, apiaries and apiary products, equine and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur.

(5) "Forest practice" means "forest practice" as defined in RCW 76.09.020."

On page 1, line 2 of the title, after "practices;" strike the remainder of the title and insert "amending RCW 7.48.310; reenacting and amending RCW 7.48.305; and creating a new section."

The President declared the question before the Senate to be the motion by Senator Rasmussen to not adopt the committee striking amendment by the Committee on Agriculture & Rural Economic Development to Engrossed House Bill No. 1648.

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

MOTION

Senator Rasmussen moved that the following striking amendment by Senator Rasmussen and others be adopted:

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Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that agricultural activities are often subjected to nuisance lawsuits. The legislature also finds that such lawsuits hasten premature conversion of agricultural lands to other uses. The legislature further finds that agricultural activities must be able to adopt new technologies and diversify into new crops and products if the agricultural industry is to survive and agricultural lands are to be conserved. Therefore, the legislature intends to enhance the protection of agricultural activities from nuisance lawsuits, and to further the clear legislative directive of the state growth management act to maintain and enhance the agricultural industry and conserve productive agricultural lands.

Sec. 2. RCW 7.48.305 and 1992 c 151 s 1 and 1992 c 52 s 3 are each reenacted and amended to read as follows:

Notwithstanding any other provision of this chapter, agricultural activities conducted on farmland and forest practices, if consistent with good agricultural and forest practices and established prior to surrounding nonagricultural and nonforestry activities, are presumed to be reasonable and shall not be found to constitute a nuisance unless the activity or practice has a substantial adverse effect on ~~((the))~~ public health and safety.

If those agricultural activities and forest practices are undertaken in conformity with all applicable laws and rules, ~~((the activities))~~ they are presumed to be good agricultural and forest practices not adversely affecting the public health and safety for purposes of this section and RCW 7.48.300. An agricultural activity that is in conformity with such laws and rules shall not be restricted as to the hours of the day or day or days of the week during which it may be conducted.

Nothing in this section shall affect or impair any right to sue for damages.

Sec. 3. RCW 7.48.310 and 1992 c 52 s 4 are each amended to read as follows:

As used in RCW 7.48.305:

(1) "Agricultural activity" means a condition or activity which occurs on a farm in connection with the commercial production of farm products and includes, but is not limited to, marketed produce at roadside stands or farm markets; noise; odors; dust; fumes; operation of machinery and irrigation pumps; movement, including, but not limited to, use of current county road ditches, streams, rivers, canals, and drains, and use of water for agricultural activities; ground and aerial application of seed, fertilizers, conditioners, and plant protection products; keeping of bees for production of agricultural or apicultural products; employment and use of labor; roadway movement of equipment and livestock; protection from damage by wildlife; prevention of trespass; construction and maintenance of buildings, fences, roads, bridges, ponds, drains, waterways, and similar features and maintenance of streambanks and watercourses; and conversion from one agricultural activity to another, including a change in the type of plant-related farm product being produced. The term includes use of new practices and equipment consistent with technological development within the agricultural industry.

(2) "Farm" means the land, buildings, freshwater ponds, freshwater culturing and growing facilities, and machinery used in the commercial production of farm products.

(3) "Farmland" means land or freshwater ponds devoted primarily to the production, for commercial purposes, of livestock, freshwater aquacultural, or other ~~((agricultural commodities))~~ farm products.

(4) "Farm product" means those plants and animals useful to humans and includes, but is not limited to, forages and sod crops, dairy and dairy products, poultry and poultry products, livestock, including breeding, grazing, and recreational equine use, fruits, vegetables, flowers, seeds, grasses, trees, freshwater fish and fish products, apiaries and apiary products, equine and

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other similar products, or any other product which incorporates the use of food, feed, fiber, or fur.

(5) "Forest practice" means "forest practice" as defined in RCW 76.09.020."

Senator Rasmussen 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 Rasmussen and others to Engrossed House Bill No. 1648.

The motion by Senator Rasmussen 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 "practices;" strike the remainder of the title and insert "amending RCW 7.48.310; reenacting and amending RCW 7.48.305; and creating a new section."

MOTION

On motion of Senator Rasmussen, the rules were suspended, Engrossed House Bill No. 1648 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, Honeyford and Clements 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. 1648 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1648 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 Benton, Berkey, Brandland, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Absent: Senator Hargrove - 1

Excused: Senators Brown and Delvin - 2

ENGROSSED HOUSE BILL NO. 1648 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 SUBSTITUTE HOUSE BILL NO. 1727, by House Committee on Local Government (originally sponsored by Representatives Springer, Eddy, Dunn, Pettigrew, B. Sullivan, Buri, Strow, Ahern, Orcutt, Takko, Anderson, Haler, Upthegrove, Simpson, Jarrett, Rodne, Sells, O'Brien, Newhouse, Miloscia, Hinkle, Walsh, McCune, Kagi, Williams, Lovick, Linville, Quall, McDonald, Warnick, Kristiansen, Hurst, Seauquist, Kenney and P. Sullivan)

Planning to ensure sufficient land and densities available to accommodate growth.

The measure was read the second time.

MOTION

Senator Fairley moved that the following committee striking amendment by the Committee on Government Operations & Elections be not adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 36.70A.070 and 2005 c 360 s 2 are each amended to read as follows:

The comprehensive plan of a county or city that is required or chooses to plan under RCW 36.70A.040 shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map. A comprehensive plan shall be adopted and amended with public participation as provided in RCW 36.70A.140.

Each comprehensive plan shall include a plan, scheme, or design for each of the following:

(1) A land use element designating the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces, general aviation airports, public utilities, public facilities, and other land uses. The land use element shall include population densities, building intensities, and estimates of future population growth. The land use element shall designate, as appropriate, a sufficient quantity of land needed for residential, commercial, and industrial uses. The land use element shall provide for protection of the quality and quantity of ground water used for public water supplies. Wherever possible, the land use element should consider utilizing urban planning approaches that promote physical activity. Where applicable, the land use element shall review drainage, flooding, and storm water run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound.

(2) A housing element ensuring the vitality and character of established residential neighborhoods that: (a) Includes an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to ~~((manage))~~ accommodate projected growth; (b) includes a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family residences; (c) identifies a sufficient quantity of land suitable for meeting the existing and projected housing needs identified in (a) of this subsection, including, but not limited to, government-assisted housing, housing for low-income families, manufactured housing, multifamily housing, and group homes and foster care facilities; and (d) makes adequate provisions for existing and projected needs of all economic segments of the community.

(3) A capital facilities plan element consisting of: (a) An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities; (b) a forecast of the future needs for such capital facilities; (c) the proposed locations and capacities of expanded or new capital facilities; (d) at least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes; and (e) a requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent. Park and recreation facilities shall be included in the capital facilities plan element.

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(4) A utilities element consisting of the general location, proposed location, and capacity of all existing and proposed utilities, including, but not limited to, electrical lines, telecommunication lines, and natural gas lines.

(5) Rural element. Counties shall include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources. The following provisions shall apply to the rural element:

(a) Growth management act goals and local circumstances. Because circumstances vary from county to county, in establishing patterns of rural densities and uses, a county may consider local circumstances, but shall develop a written record explaining how the rural element harmonizes the planning goals in RCW 36.70A.020 and meets the requirements of this chapter.

(b) Rural development. The rural element shall permit rural development, forestry, and agriculture in rural areas. The rural element shall provide for a variety of rural densities, uses, essential public facilities, and rural governmental services needed to serve the permitted densities and uses. To achieve a variety of rural densities and uses, counties may provide for clustering, density transfer, design guidelines, conservation easements, and other innovative techniques that will accommodate appropriate rural densities and uses that are not characterized by urban growth and that are consistent with rural character.

(c) Measures governing rural development. The rural element shall include measures that apply to rural development and protect the rural character of the area, as established by the county, by:

(i) Containing or otherwise controlling rural development;

(ii) Assuring visual compatibility of rural development with the surrounding rural area;

(iii) Reducing the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area;

(iv) Protecting critical areas, as provided in RCW 36.70A.060, and surface water and ground water resources; and

(v) Protecting against conflicts with the use of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170.

(d) Limited areas of more intensive rural development. Subject to the requirements of this subsection and except as otherwise specifically provided in this subsection (5)(d), the rural element may allow for limited areas of more intensive rural development, including necessary public facilities and public services to serve the limited area as follows:

(i) Rural development consisting of the infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas, whether characterized as shoreline development, villages, hamlets, rural activity centers, or crossroads developments.

(A) A commercial, industrial, residential, shoreline, or mixed-use area shall be subject to the requirements of (d)(iv) of this subsection, but shall not be subject to the requirements of (c)(ii) and (iii) of this subsection.

(B) Any development or redevelopment other than an industrial area or an industrial use within a mixed-use area or an industrial area under this subsection (5)(d)(i) must be principally designed to serve the existing and projected rural population.

(C) Any development or redevelopment in terms of building size, scale, use, or intensity shall be consistent with the character of the existing areas. Development and redevelopment may include changes in use from vacant land or a previously existing use so long as the new use conforms to the requirements of this subsection (5);

(ii) The intensification of development on lots containing, or new development of, small-scale recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location and setting, but that do not include new residential development. A small-scale recreation or tourist use is not required to be principally designed to serve the existing and projected rural population.

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Public services and public facilities shall be limited to those necessary to serve the recreation or tourist use and shall be provided in a manner that does not permit low-density sprawl;

(iii) The intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents. Rural counties may allow the expansion of small-scale businesses as long as those small-scale businesses conform with the rural character of the area as defined by the local government according to RCW 36.70A.030(~~((14))~~) (15). Rural counties may also allow new small-scale businesses to utilize a site previously occupied by an existing business as long as the new small-scale business conforms to the rural character of the area as defined by the local government according to RCW 36.70A.030(~~((14))~~) (15). Public services and public facilities shall be limited to those necessary to serve the isolated nonresidential use and shall be provided in a manner that does not permit low-density sprawl;

(iv) A county shall adopt measures to minimize and contain the existing areas or uses of more intensive rural development, as appropriate, authorized under this subsection. Lands included in such existing areas or uses shall not extend beyond the logical outer boundary of the existing area or use, thereby allowing a new pattern of low-density sprawl. Existing areas are those that are clearly identifiable and contained and where there is a logical boundary delineated predominately by the built environment, but that may also include undeveloped lands if limited as provided in this subsection. The county shall establish the logical outer boundary of an area of more intensive rural development. In establishing the logical outer boundary the county shall address (A) the need to preserve the character of existing natural neighborhoods and communities, (B) physical boundaries such as bodies of water, streets and highways, and land forms and contours, (C) the prevention of abnormally irregular boundaries, and (D) the ability to provide public facilities and public services in a manner that does not permit low-density sprawl;

(v) For purposes of (d) of this subsection, an existing area or existing use is one that was in existence:

(A) On July 1, 1990, in a county that was initially required to plan under all of the provisions of this chapter;

(B) On the date the county adopted a resolution under RCW 36.70A.040(2), in a county that is planning under all of the provisions of this chapter under RCW 36.70A.040(2); or

(C) On the date the office of financial management certifies the county's population as provided in RCW 36.70A.040(5), in a county that is planning under all of the provisions of this chapter pursuant to RCW 36.70A.040(5).

(e) Exception. This subsection shall not be interpreted to permit in the rural area a major industrial development or a master planned resort unless otherwise specifically permitted under RCW 36.70A.360 and 36.70A.365.

(6) A transportation element that implements, and is consistent with, the land use element.

(a) The transportation element shall include the following subelements:

(i) Land use assumptions used in estimating travel;

(ii) Estimated traffic impacts to state-owned transportation facilities resulting from land use assumptions to assist the department of transportation in monitoring the performance of state facilities, to plan improvements for the facilities, and to assess the impact of land-use decisions on state-owned transportation facilities;

(iii) Facilities and services needs, including:

(A) An inventory of air, water, and ground transportation facilities and services, including transit alignments and general aviation airport facilities, to define existing capital facilities and travel levels as a basis for future planning. This inventory must

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include state-owned transportation facilities within the city or county's jurisdictional boundaries;

(B) Level of service standards for all locally owned arterials and transit routes to serve as a gauge to judge performance of the system. These standards should be regionally coordinated;

(C) For state-owned transportation facilities, level of service standards for highways, as prescribed in chapters 47.06 and 47.80 RCW, to gauge the performance of the system. The purposes of reflecting level of service standards for state highways in the local comprehensive plan are to monitor the performance of the system, to evaluate improvement strategies, and to facilitate coordination between the county's or city's six-year street, road, or transit program and the department of transportation's six-year investment program. The concurrency requirements of (b) of this subsection do not apply to transportation facilities and services of statewide significance except for counties consisting of islands whose only connection to the mainland are state highways or ferry routes. In these island counties, state highways and ferry route capacity must be a factor in meeting the concurrency requirements in (b) of this subsection;

(D) Specific actions and requirements for bringing into compliance locally owned transportation facilities or services that are below an established level of service standard;

(E) Forecasts of traffic for at least ten years based on the adopted land use plan to provide information on the location, timing, and capacity needs of future growth;

(F) Identification of state and local system needs to meet current and future demands. Identified needs on state-owned transportation facilities must be consistent with the statewide multimodal transportation plan required under chapter 47.06 RCW;

(iv) Finance, including:

(A) An analysis of funding capability to judge needs against probable funding resources;

(B) A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems. The multiyear financing plan should be coordinated with the ~~((six-year))~~ ten-year improvement program developed by the department of transportation as required by RCW 47.05.030;

(C) If probable funding falls short of meeting identified needs, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed to ensure that level of service standards will be met;

(v) Intergovernmental coordination efforts, including an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions;

(vi) Demand-management strategies;

(vii) Pedestrian and bicycle component to include collaborative efforts to identify and designate planned improvements for pedestrian and bicycle facilities and corridors that address and encourage enhanced community access and promote healthy lifestyles.

(b) After adoption of the comprehensive plan by jurisdictions required to plan or who choose to plan under RCW 36.70A.040, local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a locally owned transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development. These strategies may include increased public transportation service, ride sharing programs, demand management, and other transportation systems management strategies. For the purposes of this subsection (6) "concurrent

with the development" shall mean that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years.

(c) The transportation element described in this subsection (6), and the six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems, and the ten-year plan required by RCW 47.05.030 for the state, must be consistent.

(7) An economic development element establishing local goals, policies, objectives, and provisions for economic growth and vitality and a high quality of life. The element shall include: (a) A summary of the local economy such as population, employment, payroll, sectors, businesses, sales, and other information as appropriate; (b) a summary of the strengths and weaknesses of the local economy defined as the commercial and industrial sectors and supporting factors such as land use, transportation, utilities, education, work force, housing, and natural/cultural resources; and (c) an identification of policies, programs, and projects to foster economic growth and development and to address future needs. A city that has chosen to be a residential community is exempt from the economic development element requirement of this subsection.

(8) A park and recreation element that implements, and is consistent with, the capital facilities plan element as it relates to park and recreation facilities. The element shall include: (a) Estimates of park and recreation demand for at least a ten-year period; (b) an evaluation of facilities and service needs; and (c) an evaluation of intergovernmental coordination opportunities to provide regional approaches for meeting park and recreational demand.

(9) It is the intent that new or amended elements required after January 1, 2002, be adopted concurrent with the scheduled update provided in RCW 36.70A.130. Requirements to incorporate any such new or amended elements shall be null and void until funds sufficient to cover applicable local government costs are appropriated and distributed by the state at least two years before local government must update comprehensive plans as required in RCW 36.70A.130.

Sec. 2. RCW 36.70A.090 and 1990 1st ex.s. c 17 s 9 are each amended to read as follows:

A comprehensive plan should provide for innovative land use management techniques, including, but not limited to, density bonuses, cluster housing, planned unit developments, mixed-use development, accessory dwelling units, and the transfer of development rights.

NEW SECTION. Sec. 3. A new section is added to chapter 36.70A RCW to read as follows:

(1) A county and one or more of its cities, or two or more counties sharing a common border and their cities, may adopt countywide planning policies or multicounty planning policies establishing subregions in order to address housing and employment markets that cross jurisdictional boundaries. Policies adopted under this section may include, but are not limited to:

(a) Policies that reallocate among the counties and cities in the subregion the population growth established for each local government under RCW 36.70A.110;

(b) Policies that provide for a sufficient number of housing units to accommodate the existing housing needs and projected population growth in the subregion; and

(c) Policies that provide for sufficient land suitable for development to meet the needs for commercial and industrial growth in the subregion.

(2) The local governments within the subregion may use the countywide planning policies or multicounty planning policies, interlocal agreements under chapter 39.34 RCW, or any other appropriate mechanism to implement the policies established under subsection (1) of this section.

Sec. 4. RCW 36.70A.110 and 2004 c 206 s 1 are each amended to read as follows:

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(1) In accordance with the requirements of this section, each county that is required or chooses to plan under RCW 36.70A.040 shall designate an urban growth area or areas within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature. Each city that is located in such a county shall be included within an urban growth area. An urban growth area may include more than a single city. An urban growth area may include territory that is located outside of a city only if such territory already is characterized by urban growth whether or not the urban growth area includes a city, or is adjacent to territory already characterized by urban growth, or is a designated new fully contained community as defined by RCW 36.70A.350.

(2) Based upon the growth management population projection made for the county by the office of financial management, the county and each city within the county shall include areas and densities sufficient to permit the urban growth that is projected to occur in the county or city for the succeeding twenty-year period, except for those urban growth areas contained totally within a national historical reserve.

Each urban growth area shall permit urban densities and shall include greenbelt and open space areas. In the case of urban growth areas contained totally within a national historical reserve, the city may restrict densities, intensities, and forms of urban growth as determined to be necessary and appropriate to protect the physical, cultural, or historic integrity of the reserve. An urban growth area determination may include a reasonable land market supply factor and shall permit a range of urban densities and uses. In determining this market factor, cities and counties may consider local circumstances. Cities and counties have discretion in their comprehensive plans to make many choices about accommodating growth.

Within one year of July 1, 1990, each county that as of June 1, 1991, was required or chose to plan under RCW 36.70A.040, shall begin consulting with each city located within its boundaries and each city shall propose the location of an urban growth area. Within sixty days of the date the county legislative authority of a county adopts its resolution of intention or of certification by the office of financial management, all other counties that are required or choose to plan under RCW 36.70A.040 shall begin this consultation with each city located within its boundaries. The county shall attempt to reach agreement with each city on the location of an urban growth area within which the city is located. If such an agreement is not reached with each city located within the urban growth area, the county shall justify in writing why it so designated the area an urban growth area. A city may object formally with the department over the designation of the urban growth area within which it is located. Where appropriate, the department shall attempt to resolve the conflicts, including the use of mediation services.

(3) Counties planning under RCW 36.70A.040 with populations of at least one hundred seventy-five thousand must:

(a) Consult and cooperate with each city within an urban growth area proposed for modification prior to and concurrent with actions to modify the urban growth area within which the city or cities are located; and

(b) Report to the appropriate committees of the house of representatives and the senate by December 1, 2007, on the implementation of, and any impediments related to, the requirements of (a) of this subsection.

(4) Urban growth should be located first in areas already characterized by urban growth that have adequate existing public facility and service capacities to serve such development, second in areas already characterized by urban growth that will be served adequately by a combination of both existing public facilities and services and any additional needed public facilities and services that are provided by either public or private sources, and third in the remaining portions of the urban growth areas. Urban growth may also be located in designated new fully contained communities as defined by RCW 36.70A.350.

~~((4))~~ (5) In general, cities are the units of local government most appropriate to provide urban governmental services. In general, it is not appropriate that urban governmental services be extended to or expanded in rural areas except in those limited circumstances shown to be necessary to protect basic public health and safety and the environment and when such services are financially supportable at rural densities and do not permit urban development.

~~((5))~~ (6) On or before October 1, 1993, each county that was initially required to plan under RCW 36.70A.040(1) shall adopt development regulations designating interim urban growth areas under this chapter. Within three years and three months of the date the county legislative authority of a county adopts its resolution of intention or of certification by the office of financial management, all other counties that are required or choose to plan under RCW 36.70A.040 shall adopt development regulations designating interim urban growth areas under this chapter. Adoption of the interim urban growth areas may only occur after public notice; public hearing; and compliance with the state environmental policy act, chapter 43.21C RCW, and RCW 36.70A.110. Such action may be appealed to the appropriate growth management hearings board under RCW 36.70A.280. Final urban growth areas shall be adopted at the time of comprehensive plan adoption under this chapter.

~~((6))~~ (7) Each county shall include designations of urban growth areas in its comprehensive plan.

~~((7))~~ (8) An urban growth area designated in accordance with this section may include within its boundaries urban service areas or potential annexation areas designated for specific cities or towns within the county.

NEW SECTION. Sec. 5. (1) Population in western Washington is growing and will continue to grow. Models indicate that the central Cascades region can expect a doubling of the population within the next one hundred years.

(2) The growth management act has used large lot zoning to discourage residential development of rural and resource lands. However, historical entitlement of smaller lots coupled with rapidly increasing real estate values have led to widespread development of nonurban lots of a variety of sizes, locations, and zoning categories. This problem is exacerbated by recent trends in the timber industry, resulting in ownership changes, accelerated harvesting regimes, and likely conversion of many properties to residential development in the near term. It is reasonable to assume that under a one hundred-year timeframe all nonurban lots are likely to be developed.

(3) The increase in nonurban development has disproportionate undesirable impacts to landscape and watershed integrity, environmental functions, economic viability of resource lands, and public costs.

(4) Additional approaches to managing rural growth are needed. Success will likely not come from a single strategy; rather, a multifaceted approach is required. Implementation of a region-wide or statewide transfer of development rights program could play a major role in finding a solution.

(5) The most important component in building a successful transfer of development rights program is creating adequate receiving area capacity. Accommodating dramatic population growth while meeting resource conservation goals over the next one hundred years will require greatly increasing receiving area capacity. It is a regional goal to direct growth to urban areas, and therefore it is a priority to develop this receiving capacity primarily in urban areas. In addition, the potential for additional receiving areas in appropriate nonurban areas is being explored concurrently.

NEW SECTION. Sec. 6. A new section is added to chapter 36.70A RCW to read as follows:

(1) A county planning under RCW 36.70A.040 that meets the criteria in subsection (2) of this section may designate no more than one rural village in the rural area outside of limited areas of more intensive rural development established pursuant to RCW 36.70A.070(5)(d). For the purposes of this section,

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"rural village" is defined as a compact, environmentally friendly rural development created using transfer of development rights. Rural villages will be located in the rural area, and shall coexist with traditional rural land uses such as farming and forestry. Rural villages are not urban growth, nor are they lands "characterized by urban growth" for purposes of citing adjacent or nearby lands as new urban growth areas pursuant to RCW 36.70A.110(2).

(2) Under this chapter, a county may designate a rural village in the rural area outside of limited areas of more intensive rural development established pursuant to RCW 36.70A.070(5)(d) as follows:

(a) Residential Development. The rural village may contain fifty to three hundred fifty dwelling units and may include single-family detached or attached housing, multifamily housing, and accessory dwelling units. The maximum allowable lot size for single-family detached units is seven thousand square feet within a rural village.

(b) Nonresidential Development. The rural village may include nonresidential development that is designed to serve the village population and nearby existing and projected rural residents.

(c) Development Right Transfers. All rural village nonresidential square footage or dwelling units that exceed base zoning shall require the transfer or purchase of development rights from designated land within the rural area or natural resource lands ("sending areas") as follows:

(i) For the purposes of this section, one transferable development right shall be allocated for each unrealized dwelling unit permitted by applicable development regulations, as calculated on a gross basis (allowed density x gross acreage of the property). In determining how these development rights transfer to the rural village, the county may consider local circumstances, but is encouraged to provide incentives to transfer or purchase development rights from existing nonconforming lots and authorize the transfer or purchase of development rights from larger properties that will provide landscape scale conservation benefits consistent with RCW 36.70A.011 and reduce transactions and acquisition costs helping to make the end product more affordable.

(ii) At least one-half of the development rights included in a rural village shall be transferred from the rural area, with any remainder coming from resource lands.

(iii) Each development right transferred from an existing rural lot nonconforming as to minimum lot size or density shall be given a 0.25 development rights bonus when used within a rural village.

(d) Conservation Easements. Development rights purchased or transferred from sending area properties shall be extinguished with conservation easements held jointly by a nonprofit organization and the relevant local government. The conservation easement shall permanently restrict development of the property, but shall allow for typical rural land uses, including agriculture and working forestry. A stewardship fund established by endowment, contractually established annual homeowners association fees, or a perpetual resale fee shall be created for the sending area property to ensure capacity for stewardship of conservation easement lands held in fee by the homeowners association of the rural village, and to monitor and enforce the conservation easement for all sending lands by the responsible parties.

(e) Siting Criteria. A county shall establish the criteria for siting a rural village in the rural element of its comprehensive plan. The criteria shall be in keeping with local circumstances, RCW 36.70A.070(5)(c), and favor sites with limited visual impacts, proximity to existing transportation networks, limited need for service improvements, affordability of housing in the rural village, and appropriate environmental characteristics.

(f) Designation. A rural village shall be designated in the rural element of the comprehensive plan. The regulations governing its development, including location of sending areas,

shall be included in the county's development regulations. The rural village must comply with all relevant development regulations, including critical areas regulations and transportation concurrency requirements. The county may adopt level of service or concurrency standards to address the consolidation of traffic that will result from a rural village.

(g) Boundaries. Clear boundaries shall be delineated for each rural village and shall not be expanded. Boundaries shall be buffered from surrounding land uses by physical barriers (e.g., river or undeveloped bluff) or a swath of permanently conserved land at least two hundred fifty feet wide. Boundary delineations shall maintain and integrate riparian buffers required under previous land use designation, or as required by existing critical areas designation, whichever is greater. A conservation easement restricting development in this buffer shall be held jointly by a nonprofit organization and the relevant local government.

(h) Public Services and Public Facilities.

(i) Public services and public facilities shall be limited to those necessary to serve the rural village and shall be provided in a manner that does not permit low-density sprawl. For the purposes of this section, "public services and public facilities" shall not include public schools or school facilities.

(ii) New or improved infrastructure necessary to serve the rural village shall be provided or applicable impact fees paid. New or improved infrastructure may be provided by the applicant, the county, or by a public-private partnership.

(iii) Transportation.

(A) Multimodal site planning shall be implemented and may include, but is not limited to, neighborhood circulators; bicycle paths; and park and ride, community vanpool, and carshare parking spaces.

(B) A pedestrian or nonmotorized transportation network of trails or walkways should connect residences to services and open space within and adjacent to the rural village. Walkways are pedestrian lanes that provide people with space to travel within the public right-of-way that is separated from roadway vehicles. They also provide places for children to walk, run, skate, ride bikes, and play. These facilities also improve mobility for pedestrians and provide access for all types of pedestrian travel. Walkways should be part of every new and renovated facility and every effort should be made to retrofit streets that currently do not have sidewalks. Walkways may be constructed of asphalt, crushed stone, or other materials if they are properly maintained and accessible as well as firm, stable, and slip-resistant.

(C) Road capacity exists to accommodate the projected needs of the village population and it shall meet county standards. Necessary roadway improvements may include safety enhancements, site access projects, signage revisions, and traffic facility flow and management tools.

(D) Counties shall develop innovative road standards for rural villages that are compatible with rural character and minimize impervious surfaces and storm water runoff.

(E) Rural villages are not to be gated communities. Legal instruments shall be recorded granting to the general public the right to access and utilize the transportation facilities described in (h)(iii)(A) through (D) of this subsection.

(iv) Water rights. A community water system shall be appropriately sized to serve the rural village and shall rely on existing water law to obtain adequate water rights. Such water system shall incorporate efficiency and conservation measures designed to reduce water usage.

(v) Wastewater treatment. Counties are encouraged to authorize innovative techniques for wastewater treatment in rural villages, including, but not limited to, membrane bioreactor systems. Greywater reuse for flushing, irrigation, and other appropriate uses should be authorized.

(vi) Storm water management. Counties should authorize innovative techniques for storm water management, including, but not limited to, bioswales and other natural storm water

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management systems and alternative uses for storm water that encourage water reuse, groundwater infiltration, or both.

(i) Open Space. The rural village shall contain community open space. Uses of this open space may include, but are not limited to, community gathering space, village green, park, or rural resource use. A portion of the open space must function as a village green or gathering place able to accommodate the population of the rural village.

(j) Green Building. All rural villages shall meet the national association of home builders gold level green building guidelines. Equivalent or more stringent green building standards may be substituted for this requirement (e.g., leadership in energy and environmental design, green globes, or other recognized green building standards).

(k) Native Vegetation. Disturbance of some native vegetation is likely unavoidable in the development of rural villages. However, maintaining forest cover and other native vegetation is important to the health of watersheds and the Puget Sound. Thus, to the maximum extent possible, clearing of native vegetation shall be avoided or mitigated.

(i) The disturbance of native plants and forest cover on the development site shall be minimized.

(ii) Disturbance of the development site shall be mitigated via on-site or off-site restoration or replanting of an area roughly equivalent in size to the cleared area via a fee paid to a qualified government or nonprofit land management organization.

(iii) Native plant species for landscaping of nonlawn areas of private residences shall be used. Public rights-of-way, street planting strips, and common areas shall be replanted with a regionally appropriate native plant community and structure.

(l) Design Standards. A county shall include in its development regulations design standards to protect the rural character of the area. At a minimum these design standards should address the following:

- (i) Utilities;
- (ii) Roadways and transportation;
- (iii) Visual impacts (e.g., protecting view sheds along roadways, ridgelines, hillsides, etc.); and
- (iv) Lighting and the preservation of dark skies.

(m) Notice on Title. Each county designating a rural village pilot project shall require that all plats, short plats, development permits, and building permits issued for development activities within a rural village demonstration project contain a notice that the subject property is located in a rural area where a variety of traditional rural activities may occur that may generate sights, sounds, and smells associated with farming, forestry, and other traditional rural uses. In addition, the notice for lands within a rural village demonstration project shall advise that services in rural areas are often limited and consist of rural governmental services rather than urban governmental services. The notice shall run with the land.

(3) A county may not issue groundwater well permits for any groundwater uses except stock-watering purposes, or agricultural industrial purposes allowed under RCW 90.44.050 on properties from which development rights have been sold or transferred (sending sites).

(4) Any county intending to designate a rural village demonstration project shall notify the department. The department shall ensure that a maximum of three demonstration projects may be established under this section. Any county choosing to withdraw a demonstration project shall notify the department and the department may accept an alternate project.

(5) The department shall report to the appropriate committees of the legislature annually on the progress of any rural villages established under this section. Additionally, the department shall prepare a final report to be submitted no later than December 1, 2012, on the efficacy of this section in accomplishing the purposes of RCW 36.70A.011. In preparing this report, the department shall consult with sending and receiving area landowners, project developers, builders, the

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county, and any other interested individuals or organizations. The report shall:

(a) Review the county adopted policies and regulations to enable rural village demonstration projects for consistency with the goals of section 5 of this act and RCW 36.70A.011;

(b) Provide pertinent information on the permitting and development of the rural village demonstration projects;

(c) Provide a project-specific analysis for each demonstration project looking at the effect of the rural village on the following:

(i) Rural population capacity including the impacts of the transfers from resource lands;

(ii) Land disturbance and impervious surfaces;

(iii) Water resources and watershed health; and

(iv) Wildlife habitat; and

(d) Recommend whether additional rural villages should be authorized and, if so, whether changes should be made to this section to foster the purposes of rural villages and rural lands as described in section 5 of this act, RCW 36.70A.011, and 36.70A.070(5).

(6) The authority of a county meeting the criteria of subsection (2) of this section to designate a rural village in its development regulations terminates on December 31, 2009, unless a county has notified the department, pursuant to subsection (4) of this section, of its intent to designate a rural village. Any rural village designated under this authority shall be available for the approved uses as long as the rural village is in compliance with the conditions of approval adopted by the county.

(7) This section applies to counties that are located within the Puget Sound regional council's planning area.

(8) This section is intended to further the purposes of RCW 36.70A.070(5)(c), and should in no way be interpreted to alter the requirements therein."

On page 1, line 2 of the title, after "growth;" strike the remainder of the title and insert "amending RCW 36.70A.070, 36.70A.090, and 36.70A.110; adding new sections to chapter 36.70A RCW; and creating a new section."

The President declared the question before the Senate to be the motion by Senator Fairley to not adopt the committee striking amendment by the Committee on Government Operations & Elections to Engrossed Substitute House Bill No. 1727.

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

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 36.70A.070 and 2005 c 360 s 2 are each amended to read as follows:

The comprehensive plan of a county or city that is required or chooses to plan under RCW 36.70A.040 shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map. A comprehensive plan shall be adopted and amended with public participation as provided in RCW 36.70A.140.

Each comprehensive plan shall include a plan, scheme, or design for each of the following:

(1) A land use element designating the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces, general aviation airports, public utilities, public facilities, and other land uses. The land use element shall include population densities,

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building intensities, and estimates of future population growth. The land use element shall designate, as appropriate, a sufficient quantity of land needed for residential, commercial, and industrial uses. The land use element shall provide for protection of the quality and quantity of ground water used for public water supplies. Wherever possible, the land use element should consider utilizing urban planning approaches that promote physical activity. Where applicable, the land use element shall review drainage, flooding, and storm water run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound.

(2) A housing element ensuring the vitality and character of established residential neighborhoods that: (a) Includes an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to ~~((manage))~~ accommodate projected growth; (b) includes a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family residences; (c) identifies a sufficient quantity of land suitable for meeting the existing and projected housing needs identified in (a) of this subsection, including, but not limited to, government-assisted housing, housing for low-income families, manufactured housing, multifamily housing, and group homes and foster care facilities; and (d) makes adequate provisions for existing and projected needs of all economic segments of the community.

(3) A capital facilities plan element consisting of: (a) An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities; (b) a forecast of the future needs for such capital facilities; (c) the proposed locations and capacities of expanded or new capital facilities; (d) at least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes; and (e) a requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent. Park and recreation facilities shall be included in the capital facilities plan element.

(4) A utilities element consisting of the general location, proposed location, and capacity of all existing and proposed utilities, including, but not limited to, electrical lines, telecommunication lines, and natural gas lines.

(5) Rural element. Counties shall include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources. The following provisions shall apply to the rural element:

(a) Growth management act goals and local circumstances. Because circumstances vary from county to county, in establishing patterns of rural densities and uses, a county may consider local circumstances, but shall develop a written record explaining how the rural element harmonizes the planning goals in RCW 36.70A.020 and meets the requirements of this chapter.

(b) Rural development. The rural element shall permit rural development, forestry, and agriculture in rural areas. The rural element shall provide for a variety of rural densities, uses, essential public facilities, and rural governmental services needed to serve the permitted densities and uses. To achieve a variety of rural densities and uses, counties may provide for clustering, density transfer, design guidelines, conservation easements, and other innovative techniques that will accommodate appropriate rural densities and uses that are not characterized by urban growth and that are consistent with rural character.

(c) Measures governing rural development. The rural element shall include measures that apply to rural development and protect the rural character of the area, as established by the county, by:

- (i) Containing or otherwise controlling rural development;
- (ii) Assuring visual compatibility of rural development with the surrounding rural area;
- (iii) Reducing the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area;
- (iv) Protecting critical areas, as provided in RCW 36.70A.060, and surface water and ground water resources; and
- (v) Protecting against conflicts with the use of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170.

(d) Limited areas of more intensive rural development. Subject to the requirements of this subsection and except as otherwise specifically provided in this subsection (5)(d), the rural element may allow for limited areas of more intensive rural development, including necessary public facilities and public services to serve the limited area as follows:

(i) Rural development consisting of the infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas, whether characterized as shoreline development, villages, hamlets, rural activity centers, or crossroads developments.

(A) A commercial, industrial, residential, shoreline, or mixed-use area shall be subject to the requirements of (d)(iv) of this subsection, but shall not be subject to the requirements of (c)(ii) and (iii) of this subsection.

(B) Any development or redevelopment other than an industrial area or an industrial use within a mixed-use area or an industrial area under this subsection (5)(d)(i) must be principally designed to serve the existing and projected rural population.

(C) Any development or redevelopment in terms of building size, scale, use, or intensity shall be consistent with the character of the existing areas. Development and redevelopment may include changes in use from vacant land or a previously existing use so long as the new use conforms to the requirements of this subsection (5);

(ii) The intensification of development on lots containing, or new development of, small-scale recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location and setting, but that do not include new residential development. A small-scale recreation or tourist use is not required to be principally designed to serve the existing and projected rural population. Public services and public facilities shall be limited to those necessary to serve the recreation or tourist use and shall be provided in a manner that does not permit low-density sprawl;

(iii) The intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents. Rural counties may allow the expansion of small-scale businesses as long as those small-scale businesses conform with the rural character of the area as defined by the local government according to RCW 36.70A.030(~~((+4))~~) (15). Rural counties may also allow new small-scale businesses to utilize a site previously occupied by an existing business as long as the new small-scale business conforms to the rural character of the area as defined by the local government according to RCW 36.70A.030(~~((+4))~~) (15). Public services and public facilities shall be limited to those necessary to serve the isolated nonresidential use and shall be provided in a manner that does not permit low-density sprawl;

(iv) A county shall adopt measures to minimize and contain the existing areas or uses of more intensive rural development, as appropriate, authorized under this subsection. Lands included in such existing areas or uses shall not extend beyond the logical outer boundary of the existing area or use, thereby allowing a new pattern of low-density sprawl. Existing areas are those that are clearly identifiable and contained and where there is a logical boundary delineated predominately by the built environment, but that may also include undeveloped lands if

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limited as provided in this subsection. The county shall establish the logical outer boundary of an area of more intensive rural development. In establishing the logical outer boundary the county shall address (A) the need to preserve the character of existing natural neighborhoods and communities, (B) physical boundaries such as bodies of water, streets and highways, and land forms and contours, (C) the prevention of abnormally irregular boundaries, and (D) the ability to provide public facilities and public services in a manner that does not permit low-density sprawl;

(v) For purposes of (d) of this subsection, an existing area or existing use is one that was in existence:

(A) On July 1, 1990, in a county that was initially required to plan under all of the provisions of this chapter;

(B) On the date the county adopted a resolution under RCW 36.70A.040(2), in a county that is planning under all of the provisions of this chapter under RCW 36.70A.040(2); or

(C) On the date the office of financial management certifies the county's population as provided in RCW 36.70A.040(5), in a county that is planning under all of the provisions of this chapter pursuant to RCW 36.70A.040(5).

(e) Exception. This subsection shall not be interpreted to permit in the rural area a major industrial development or a master planned resort unless otherwise specifically permitted under RCW 36.70A.360 and 36.70A.365.

(6) A transportation element that implements, and is consistent with, the land use element.

(a) The transportation element shall include the following subelements:

(i) Land use assumptions used in estimating travel;

(ii) Estimated traffic impacts to state-owned transportation facilities resulting from land use assumptions to assist the department of transportation in monitoring the performance of state facilities, to plan improvements for the facilities, and to assess the impact of land-use decisions on state-owned transportation facilities;

(iii) Facilities and services needs, including:

(A) An inventory of air, water, and ground transportation facilities and services, including transit alignments and general aviation airport facilities, to define existing capital facilities and travel levels as a basis for future planning. This inventory must include state-owned transportation facilities within the city or county's jurisdictional boundaries;

(B) Level of service standards for all locally owned arterials and transit routes to serve as a gauge to judge performance of the system. These standards should be regionally coordinated;

(C) For state-owned transportation facilities, level of service standards for highways, as prescribed in chapters 47.06 and 47.80 RCW, to gauge the performance of the system. The purposes of reflecting level of service standards for state highways in the local comprehensive plan are to monitor the performance of the system, to evaluate improvement strategies, and to facilitate coordination between the county's or city's six-year street, road, or transit program and the department of transportation's six-year investment program. The concurrency requirements of (b) of this subsection do not apply to transportation facilities and services of statewide significance except for counties consisting of islands whose only connection to the mainland are state highways or ferry routes. In these island counties, state highways and ferry route capacity must be a factor in meeting the concurrency requirements in (b) of this subsection;

(D) Specific actions and requirements for bringing into compliance locally owned transportation facilities or services that are below an established level of service standard;

(E) Forecasts of traffic for at least ten years based on the adopted land use plan to provide information on the location, timing, and capacity needs of future growth;

(F) Identification of state and local system needs to meet current and future demands. Identified needs on state-owned transportation facilities must be consistent with the statewide

multimodal transportation plan required under chapter 47.06 RCW;

(iv) Finance, including:

(A) An analysis of funding capability to judge needs against probable funding resources;

(B) A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems. The multiyear financing plan should be coordinated with the ~~(six-year)~~ ten-year improvement program developed by the department of transportation as required by RCW 47.05.030;

(C) If probable funding falls short of meeting identified needs, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed to ensure that level of service standards will be met;

(v) Intergovernmental coordination efforts, including an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions;

(vi) Demand-management strategies;

(vii) Pedestrian and bicycle component to include collaborative efforts to identify and designate planned improvements for pedestrian and bicycle facilities and corridors that address and encourage enhanced community access and promote healthy lifestyles.

(b) After adoption of the comprehensive plan by jurisdictions required to plan or who choose to plan under RCW 36.70A.040, local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a locally owned transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development. These strategies may include increased public transportation service, ride sharing programs, demand management, and other transportation systems management strategies. For the purposes of this subsection (6) "concurrent with the development" shall mean that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years.

(c) The transportation element described in this subsection (6), and the six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems, and the ten-year plan required by RCW 47.05.030 for the state, must be consistent.

(7) An economic development element establishing local goals, policies, objectives, and provisions for economic growth and vitality and a high quality of life. The element shall include: (a) a summary of the local economy such as population, employment, payroll, sectors, businesses, sales, and other information as appropriate; (b) a summary of the strengths and weaknesses of the local economy defined as the commercial and industrial sectors and supporting factors such as land use, transportation, utilities, education, work force, housing, and natural/cultural resources; and (c) an identification of policies, programs, and projects to foster economic growth and development and to address future needs. A city that has chosen to be a residential community is exempt from the economic development element requirement of this subsection.

(8) A park and recreation element that implements, and is consistent with, the capital facilities plan element as it relates to park and recreation facilities. The element shall include: (a) Estimates of park and recreation demand for at least a ten-year period; (b) an evaluation of facilities and service needs; and (c) an evaluation of intergovernmental coordination opportunities to

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provide regional approaches for meeting park and recreational demand.

(9) It is the intent that new or amended elements required after January 1, 2002, be adopted concurrent with the scheduled update provided in RCW 36.70A.130. Requirements to incorporate any such new or amended elements shall be null and void until funds sufficient to cover applicable local government costs are appropriated and distributed by the state at least two years before local government must update comprehensive plans as required in RCW 36.70A.130.

Sec. 2. RCW 36.70A.090 and 1990 1st ex.s. c 17 s 9 are each amended to read as follows:

A comprehensive plan should provide for innovative land use management techniques, including, but not limited to, density bonuses, cluster housing, planned unit developments, mixed-use development, accessory dwelling units, and the transfer of development rights. Jurisdictions that are not subject to the requirements of RCW 43.63A.215 may provide for accessory dwelling units in their comprehensive plans and development regulations.

NEW SECTION. Sec. 3. A new section is added to chapter 36.70A RCW to read as follows:

(1) A county and one or more of its cities, or two or more counties sharing a common border and their cities, may adopt countywide planning policies or multicounty planning policies establishing subregions in order to address housing and employment markets that cross jurisdictional boundaries. Policies adopted under this section may include, but are not limited to:

(a) Policies that reallocate among the counties and cities in the subregion the population growth established for each local government under RCW 36.70A.110;

(b) Policies that provide for a sufficient number of housing units to accommodate the existing housing needs and projected population growth in the subregion; and

(c) Policies that provide for sufficient land suitable for development to meet the needs for commercial and industrial growth in the subregion.

(2) The local governments within the subregion may use the countywide planning policies or multicounty planning policies, interlocal agreements under chapter 39.34 RCW, or any other appropriate mechanism to implement the policies established under subsection (1) of this section.

Sec. 4. RCW 36.70A.110 and 2004 c 206 s 1 are each amended to read as follows:

(1) In accordance with the requirements of this section, each county that is required or chooses to plan under RCW 36.70A.040 shall designate an urban growth area or areas within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature. Each city that is located in such a county shall be included within an urban growth area. An urban growth area may include more than a single city. An urban growth area may include territory that is located outside of a city only if such territory already is characterized by urban growth whether or not the urban growth area includes a city, or is adjacent to territory already characterized by urban growth, or is a designated new fully contained community as defined by RCW 36.70A.350.

(2) Based upon the growth management population projection made for the county by the office of financial management, the county and each city within the county shall include areas and densities sufficient to permit the urban growth that is projected to occur in the county or city for the succeeding twenty-year period, except for those urban growth areas contained totally within a national historical reserve.

Each urban growth area shall permit urban densities and shall include greenbelt and open space areas. In the case of urban growth areas contained totally within a national historical reserve, the city may restrict densities, intensities, and forms of urban growth as determined to be necessary and appropriate to protect the physical, cultural, or historic integrity of the reserve.

An urban growth area determination may include a reasonable land market supply factor and shall permit a range of urban densities and uses. In determining this market factor, cities and counties may consider local circumstances. Cities and counties have discretion in their comprehensive plans to make many choices about accommodating growth.

Within one year of July 1, 1990, each county that as of June 1, 1991, was required or chose to plan under RCW 36.70A.040, shall begin consulting with each city located within its boundaries and each city shall propose the location of an urban growth area. Within sixty days of the date the county legislative authority of a county adopts its resolution of intention or of certification by the office of financial management, all other counties that are required or choose to plan under RCW 36.70A.040 shall begin this consultation with each city located within its boundaries. The county shall attempt to reach agreement with each city on the location of an urban growth area within which the city is located. If such an agreement is not reached with each city located within the urban growth area, the county shall justify in writing why it so designated the area an urban growth area. A city may object formally with the department over the designation of the urban growth area within which it is located. Where appropriate, the department shall attempt to resolve the conflicts, including the use of mediation services.

(3) Counties subject to RCW 36.70A.215 and counties east of the crest of the Cascade mountain range with a population greater than four hundred thousand must:

(a) Consult with cities within each urban growth area in the county about developing criteria and procedures that may improve the process of modifying or designating new urban growth areas;

(b) Upon request, consult with any city or cities within the county that about an unincorporated urban growth area or areas about adopting consistent development standards with those of the city or cities located within or adjacent to the urban growth areas; and

(c) Submit a report to the appropriate committees of the house of representatives and the senate by December 1, 2007, summarizing findings and recommendations resulting from the consultations required in (a) and (b) of this subsection. The reports required in this subsection may be submitted by individual jurisdictions or jointly by participating jurisdictions.

(4) Urban growth should be located first in areas already characterized by urban growth that have adequate existing public facility and service capacities to serve such development, second in areas already characterized by urban growth that will be served adequately by a combination of both existing public facilities and services and any additional needed public facilities and services that are provided by either public or private sources, and third in the remaining portions of the urban growth areas. Urban growth may also be located in designated new fully contained communities as defined by RCW 36.70A.350.

((4)) (5) In general, cities are the units of local government most appropriate to provide urban governmental services. In general, it is not appropriate that urban governmental services be extended to or expanded in rural areas except in those limited circumstances shown to be necessary to protect basic public health and safety and the environment and when such services are financially supportable at rural densities and do not permit urban development.

((5)) (6) On or before October 1, 1993, each county that was initially required to plan under RCW 36.70A.040(1) shall adopt development regulations designating interim urban growth areas under this chapter. Within three years and three months of the date the county legislative authority of a county adopts its resolution of intention or of certification by the office of financial management, all other counties that are required or choose to plan under RCW 36.70A.040 shall adopt development regulations designating interim urban growth areas under this chapter. Adoption of the interim urban growth areas may only

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occur after public notice; public hearing; and compliance with the state environmental policy act, chapter 43.21C RCW, and RCW 36.70A.110. Such action may be appealed to the appropriate growth management hearings board under RCW 36.70A.280. Final urban growth areas shall be adopted at the time of comprehensive plan adoption under this chapter.

~~((6))~~ (7) Each county shall include designations of urban growth areas in its comprehensive plan.

~~((7))~~ (8) An urban growth area designated in accordance with this section may include within its boundaries urban service areas or potential annexation areas designated for specific cities or towns within the county.

NEW SECTION. Sec. 5. (1) Population in western Washington is growing and will continue to grow. Models indicate that the central Cascades region can expect a doubling of the population within the next one hundred years.

(2) The growth management act has used large lot zoning to discourage residential development of rural and resource lands. However, historical entitlement of smaller lots coupled with rapidly increasing real estate values have led to widespread development of nonurban lots of a variety of sizes, locations, and zoning categories. This problem is exacerbated by recent trends in the timber industry, resulting in ownership changes, accelerated harvesting regimes, and likely conversion of many properties to residential development in the near term. It is reasonable to assume that under a one hundred-year timeframe all nonurban lots are likely to be developed.

(3) The increase in nonurban development has disproportionate undesirable impacts to landscape and watershed integrity, environmental functions, economic viability of resource lands, and public costs.

(4) The most important component in building a successful transfer of development rights program is creating adequate receiving area capacity. Accommodating dramatic population growth while meeting resource conservation goals over the next one hundred years will require greatly increasing receiving area capacity. It is a regional goal to direct growth to urban areas, and therefore it is a priority to develop this receiving capacity primarily in urban areas. In addition, the potential for additional receiving areas in appropriate nonurban areas is being explored concurrently.

NEW SECTION. Sec. 6. A new section is added to chapter 36.70A RCW to read as follows:

(1) A county planning under RCW 36.70A.040 that meets the criteria in subsection (2) of this section may designate no more than one rural village in the rural area outside of limited areas of more intensive rural development established pursuant to RCW 36.70A.070(5)(d). For the purposes of this section, "rural village" is defined as a compact, environmentally friendly rural development created using transfer of development rights. Rural villages will be located in the rural area, and shall coexist with traditional rural land uses such as farming and forestry. Rural villages are not urban growth, nor are they lands "characterized by urban growth" for purposes of citing adjacent or nearby lands as new urban growth areas pursuant to RCW 36.70A.110(2).

(2) Under this chapter, a county may designate a rural village in the rural area outside of limited areas of more intensive rural development established pursuant to RCW 36.70A.070(5)(d) as follows:

(a) Residential Development. The rural village may contain fifty to two hundred dwelling units and may include single-family detached or attached housing, multifamily housing, and accessory dwelling units. The maximum allowable lot size for single-family detached units is seven thousand square feet within a rural village.

(b) Nonresidential Development. The rural village may include nonresidential development that is designed to serve the village population and nearby existing and projected rural residents.

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(c) Development Right Transfers. All rural village nonresidential square footage or dwelling units that exceed base zoning shall require the transfer or purchase of development rights from designated land within the rural area or natural resource lands ("sending areas") as follows:

(i) For the purposes of this section, one transferable development right shall be allocated for each unrealized dwelling unit permitted by applicable development regulations, as calculated on a gross basis (allowed density x gross acreage of the property). In determining how these development rights transfer to the rural village, the county may consider local circumstances, but is encouraged to provide incentives to transfer or purchase development rights from existing nonconforming lots and authorize the transfer or purchase of development rights from larger properties that will provide landscape scale conservation benefits consistent with RCW 36.70A.011 and reduce transactions and acquisition costs helping to make the end product more affordable.

(ii) At least one-half of the development rights included in a rural village shall be transferred from the rural area, with any remainder coming from resource lands.

(iii) Each development right transferred from an existing rural lot nonconforming as to minimum lot size or density shall be given a 0.25 development rights bonus when used within a rural village.

(d) Conservation Easements. Development rights purchased or transferred from sending area properties shall be extinguished with conservation easements held jointly by a nonprofit organization and the relevant local government. The conservation easement shall permanently restrict development of the property, but shall allow for typical rural land uses, including agriculture and working forestry. A stewardship fund established by endowment, contractually established annual homeowners association fees, or a perpetual resale fee shall be created for the sending area property to ensure capacity for stewardship of conservation easement lands held in fee by the homeowners association of the rural village, and to monitor and enforce the conservation easement for all sending lands by the responsible parties.

(e) Siting Criteria. A county shall establish the criteria for siting a rural village in the rural element of its comprehensive plan. The criteria shall be in keeping with local circumstances, RCW 36.70A.070(5)(c), and favor sites with limited visual impacts, proximity to existing transportation networks, limited need for service improvements, affordability of housing in the rural village, and appropriate environmental characteristics.

(f) Designation. A rural village shall be designated in the rural element of the comprehensive plan. The regulations governing its development, including location of sending areas, shall be included in the county's development regulations. The rural village must comply with all relevant development regulations, including critical areas regulations and transportation concurrency requirements. The county may adopt level of service or concurrency standards to address the consolidation of traffic that will result from a rural village.

(g) Boundaries. Clear boundaries shall be delineated for each rural village and shall not be expanded. Boundaries shall be buffered from surrounding land uses by physical barriers (e.g., river or undeveloped bluff) or a swath of permanently conserved land at least two hundred fifty feet wide. Boundary delineations shall maintain and integrate riparian buffers required under previous land use designation, or as required by existing critical areas designation, whichever is greater. A conservation easement restricting development in this buffer shall be held jointly by a nonprofit organization and the relevant local government.

(h) Public Services and Public Facilities.

(i) Public services and public facilities shall be limited to those necessary to serve the rural village and shall be provided in a manner that does not permit low-density sprawl. For the

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purposes of this section, "public services and public facilities" shall not include public schools or school facilities.

(ii) New or improved infrastructure necessary to serve the rural village shall be provided or applicable impact fees paid. New or improved infrastructure may be provided by the applicant, the county, or by a public-private partnership.

(iii) Transportation.

(A) Multimodal site planning shall be implemented and may include, but is not limited to, neighborhood circulators; bicycle paths; and park and ride, community vanpool, and carshare parking spaces.

(B) A pedestrian or nonmotorized transportation network of trails or walkways should connect residences to services and open space within and adjacent to the rural village. Walkways are pedestrian lanes that provide people with space to travel within the public right-of-way that is separated from roadway vehicles. They also provide places for children to walk, run, skate, ride bikes, and play. These facilities also improve mobility for pedestrians and provide access for all types of pedestrian travel. Walkways should be part of every new and renovated facility and every effort should be made to retrofit streets that currently do not have sidewalks. Walkways may be constructed of asphalt, crushed stone, or other materials if they are properly maintained and accessible as well as firm, stable, and slip-resistant.

(C) Road capacity exists to accommodate the projected needs of the village population and it shall meet county standards. Necessary roadway improvements may include safety enhancements, site access projects, signage revisions, and traffic facility flow and management tools.

(D) Counties shall develop innovative road standards for rural villages that are compatible with rural character and minimize impervious surfaces and storm water runoff.

(E) Rural villages are not to be gated communities. Legal instruments shall be recorded granting to the general public the right to access and utilize the transportation facilities described in (h)(iii)(A) through (D) of this subsection.

(iv) Water rights. A community water system shall be appropriately sized to serve the rural village and shall rely on existing water law to obtain adequate water rights. Such water system shall incorporate efficiency and conservation measures designed to reduce water usage.

(v) Wastewater treatment. Counties are encouraged to authorize innovative techniques for wastewater treatment in rural villages, including, but not limited to, membrane bioreactor systems. Greywater reuse for flushing, irrigation, and other appropriate uses should be authorized.

(vi) Storm water management. Counties should authorize innovative techniques for storm water management, including, but not limited to, bioswales and other natural storm water management systems and alternative uses for storm water that encourage water reuse, groundwater infiltration, or both.

(i) Open Space. The rural village shall contain community open space. Uses of this open space may include, but are not limited to, community gathering space, village green, park, or rural resource use. A portion of the open space must function as a village green or gathering place able to accommodate the population of the rural village.

(j) Green Building. All rural villages shall meet the national association of home builders gold level green building guidelines. Equivalent or more stringent green building standards may be substituted for this requirement (e.g., leadership in energy and environmental design, green globes, or other recognized green building standards).

(k) Native Vegetation. Disturbance of some native vegetation is likely unavoidable in the development of rural villages. However, maintaining forest cover and other native vegetation is important to the health of watersheds and Puget Sound. Thus, to the maximum extent possible, clearing of native vegetation shall be avoided or mitigated.

(i) The disturbance of native plants and forest cover on the development site shall be minimized.

(ii) Disturbance of the development site shall be mitigated via on-site or off-site restoration or replanting of an area roughly equivalent in size to the cleared area via a fee paid to a qualified government or nonprofit land management organization.

(iii) Native plant species for landscaping of nonlawn areas of private residences shall be used. Public rights-of-way, street planting strips, and common areas shall be replanted with a regionally appropriate native plant community and structure.

(l) Design Standards. A county shall include in its development regulations design standards to protect the rural character of the area. At a minimum these design standards should address the following:

(i) Utilities;

(ii) Roadways and transportation;

(iii) Visual impacts (e.g., protecting view sheds along roadways, ridgelines, hillsides, etc.); and

(iv) Lighting and the preservation of dark skies.

(m) Notice on Title. Each county designating a rural village pilot project shall require that all plats, short plats, development permits, and building permits issued for development activities within a rural village demonstration project contain a notice that the subject property is located in a rural area where a variety of traditional rural activities may occur that may generate sights, sounds, and smells associated with farming, forestry, and other traditional rural uses. In addition, the notice for lands within a rural village demonstration project shall advise that services in rural areas are often limited and consist of rural governmental services rather than urban governmental services. The notice shall run with the land.

(3) Any county intending to designate a rural village demonstration project shall notify the department. The department shall ensure that a maximum of three demonstration projects may be established under this section. Any county choosing to withdraw a demonstration project shall notify the department and the department may accept an alternate project.

(4) The department shall report to the appropriate committees of the legislature annually on the progress of any rural villages established under this section. Additionally, the department shall prepare a final report to be submitted no later than December 1, 2012, on the efficacy of this section in accomplishing the purposes of RCW 36.70A.011. In preparing this report, the department shall consult with sending and receiving area landowners, project developers, builders, the county, and any other interested individuals or organizations. The report shall:

(a) Review the county adopted policies and regulations to enable rural village demonstration projects for consistency with the goals of section 5 of this act and RCW 36.70A.011;

(b) Provide pertinent information on the permitting and development of the rural village demonstration projects;

(c) Provide a project-specific analysis for each demonstration project looking at the effect of the rural village on the following:

(i) Rural population capacity including the impacts of the transfers from resource lands;

(ii) Land disturbance and impervious surfaces;

(iii) Water resources and watershed health; and

(iv) Wildlife habitat; and

(d) Recommend whether additional rural villages should be authorized and, if so, whether changes should be made to this section to foster the purposes of rural villages and rural lands as described in section 5 of this act, RCW 36.70A.011, and 36.70A.070(5).

(5) The authority of a county meeting the criteria of subsection (2) of this section to designate a rural village in its development regulations terminates on December 31, 2009, unless a county has notified the department, pursuant to subsection (3) of this section, of its intent to designate a rural village. Any rural village designated under this authority shall

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be available for the approved uses as long as the rural village is in compliance with the conditions of approval adopted by the county.

(6) This section applies to counties that are located within the Puget Sound regional council's planning area.

(7) This section is intended to further the purposes of RCW 36.70A.070(5)(c), and should in no way be interpreted to alter the requirements therein.

NEW SECTION. Sec. 7. If specific funding for the purposes of section 6 of this act, referencing section 6 of this act by bill or chapter number and section number, is not provided by June 30, 2007, in the omnibus appropriations act, section 6 of this act is null and void."

On page 1, line 2 of the title, after "growth;" strike the remainder of the title and insert "amending RCW 36.70A.070, 36.70A.090, and 36.70A.110; adding new sections to chapter 36.70A RCW; and creating new sections."

POINT OF ORDER

Senator Spanel: "Mr. President, I believe that sections 5 & 6 of the striking amendment exceed the scope and object of the bill. I have an explanation. Engrossed Substitute House Bill No. 1727 is a bill that amends existing Growth Management requirements to ensure sufficient land densities and are available to accommodate urban growth. Under the Growth Management Act growth is encouraged in urban areas where adequate public facilities and services exist or can be provided in an efficient manner. The bill seeks to ensure.....I just have a question, May I have a second? The amendment that was adopted was....That was put on the table.....?"

RULING BY THE PRESIDENT

President Owen: "The committee amendment was not adopted and then a striking amendment has been placed on the desk."

POINT OF ORDER

Senator Spanel: "Ok, I was just making sure that I was talking to the right thing. By requiring the land use and housing elements of comprehensive plans designate and identifies sufficient quantity of land needed for residential and commercial industrial use-all of which are urban growth issues; by allowing counties and cities that share a border to adopt planning policies that establish sub-regions that can urban growth among the sub-region and growth and provide for residential, commercial industrial development of sub region; and, three, by requiring certain counties to adopt development regulations for unincorporated territory within urban growth areas that are consistent with development regulations of the city or cities surrounding the area. The committee striking amendment introduces an entirely new rural concept to the growth Management Act. The amendment authorizes a rural village pilot project. A rural village is a rural development created using a transfer of development rights program. The amendment requires, specifies requirements of rural villages including requirements, related to the transfer of development rights. The siting of rural village or rural villages including and development regulations. Rural villages are specifically defined as not urban growth and they do not ensure sufficient land and densities available for residential, commercial industrial use. Because the underlying bill contemplates urban growth and the amendment authorizes a rural village pilot project that is completely unrelated urban growth, the amendment is outside the scope of the underlying bill."

Senator Swecker spoke against the point of order.

MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute House Bill No. 1727 was deferred and the bill held its place on the second reading calendar.

PARLIAMENTARY INQUIRY

Senator Benton: "This amendment that has just been scoped or, has just been objected to, is nineteen pages, nineteen page striking amendment. It was dropped on my desk literally forty-five seconds before the bill came up for discussion and I'd like to know; (a) how long the amendments been on the bar because I just got it? and (b) you know we have a rule that in order to publicly hear a bill we have to give a five day notice so the public knows what the content is going to be in the bill, but we have no such rule about amendments and we can get an amendment dropped on the desk here that's nineteen pages long. Again, we hear a two minute argument on it and no wonder your going to run into scope problems because I....."

REMARKS BY THE PRESIDENT

President Owen: "Senator Benton, what is you point of inquiry?"

PARLIAMENTARY INQUIRY

Senator Benton: "What is the rule on timeliness of amendments and how much time and is this..... are members entitled to caucus on a nineteen page amendment before they're asked to vote on it?"

REPLY BY THE PRESIDENT

President Owen: "Senator Benton, you raised two questions that the President can recall correctly. The first was, is there a rule relative to the time of amendment to be on the desk? The answer is no. Secondly, can you caucus on that? That is at the will of the body. You can ask for a caucus anytime you want and it's at the will of the body whether or not you go at ease or recess to caucus."

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1953, by House Committee on Insurance, Financial Services & Consumer Protection (originally sponsored by Representatives Wood, Buri, Wallace, Rodne, Schindler, Ahern, Morrell and Ormsby)

Requiring premium reductions for older insureds completing an accident prevention course.

The measure was read the second time.

MOTION

On motion of Senator Berkey, the rules were suspended, Substitute House Bill No. 1953 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Berkey spoke in favor of passage of the bill.

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MOTION

On motion of Senator Regala, Senator Kastama was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1953.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1953 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Brown and Kastama - 2

SUBSTITUTE HOUSE BILL NO. 1953, 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. 2118, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Conway, Wood and Ormsby)

Transferring responsibilities related to mobile and manufactured home installation from the department of community, trade, and economic development to the department of labor and industries.

The measure was read the second time.

MOTION

Senator Weinstein moved that the following committee striking amendment by the Committee on Consumer Protection & Housing be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.63A.460 and 1993 c 280 s 76 are each amended to read as follows:

Beginning on July 1, ~~((1994))~~ 2007, the department ~~((of community, trade, and economic development))~~ shall ~~((be responsible for performing))~~ perform all the consumer complaint and related functions of the state administrative agency that are required for purposes of complying with the regulations established by the federal department of housing and urban development for manufactured housing, including the preparation and submission of the state administrative plan.

The department ~~((of community, trade, and economic development))~~ may enter into state or local interagency agreements to coordinate site inspection activities with record monitoring and complaint handling. The interagency agreement may also provide for the reimbursement for cost of work that an agency performs. The department may include other related areas in any interagency agreements which are necessary for the efficient provision of services.

The department of ~~((labor and industries))~~ community, trade, and economic development shall transfer all records, files, books, and documents necessary for the department ~~((of~~

~~community, trade, and economic development))~~ to assume these new functions.

The directors of community, trade, and economic development and ~~((the department))~~ of labor and industries shall immediately take such steps as are necessary to ensure that ~~((chapter 176, Laws of 1990))~~ this act is implemented on ~~((June 7, 1990))~~ July 1, 2007.

Sec. 2. RCW 43.63A.465 and 1995 c 399 s 74 are each amended to read as follows:

The director ~~((of the department of community, trade, and economic development))~~ shall enforce manufactured housing safety and construction standards adopted by the secretary of housing and urban development under the national manufactured housing construction and safety standards act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426). Furthermore, the director may make agreements with the United States government, state agencies, or private inspection organizations to implement the development and enforcement of applicable provisions of this chapter and the national manufactured housing construction and safety standards act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426) regarding the state administrative agency program.

Sec. 3. RCW 43.63B.010 and 1998 c 124 s 6 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Authorized representative" means an employee of a state agency, city, or county acting on behalf of the department.

(2) "Certified manufactured home installer" means a person who is in the business of installing mobile or manufactured homes and who has been issued a certificate by the department as provided in this chapter.

(3) "Department" means the department of ~~((community, trade, and economic development))~~ labor and industries.

(4) "Director" means the director of ~~((community, trade, and economic development))~~ labor and industries.

(5) "Manufactured home" means a single-family dwelling built in accordance with the department of housing and urban development manufactured home construction and safety standards act, which is a national, preemptive building code.

(6) "Mobile or manufactured home installation" means all on-site work necessary for the installation of a manufactured home, including:

(a) Construction of the foundation system;

(b) Installation of the support piers and earthquake resistant bracing system;

(c) Required connection to foundation system and support piers;

(d) Skirting;

(e) Connections to the on-site water and sewer systems that are necessary for the normal operation of the home; and

(f) Extension of the pressure relief valve for the water heater.

(7) "Manufactured home standards" means the manufactured home construction and safety standards as promulgated by the United States department of housing and urban development (HUD).

(8) "Mobile home" means a factory-built dwelling built prior to June 15, 1976, to standards other than the HUD code, and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state. Mobile homes have not been built since introduction of the HUD manufactured home construction and safety standards act.

(9) "Training course" means the education program administered by the department, or the education course administered by an approved educational provider, as a prerequisite to taking the examination for certification.

(10) "Approved educational provider" means an organization approved by the department to provide education and training of manufactured home installers and local inspectors.

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Sec. 4. RCW 43.63B.150 and 1994 c 284 s 29 are each amended to read as follows:

~~((All violations designated as an infraction shall be adjudicated in accordance with the administrative procedure act, chapter 34.05 RCW.))~~ If a party desires to contest a notice of infraction and civil penalty issued under this chapter, the party must file a notice of appeal with the department within twenty days of the department mailing the notice of civil penalty. An administrative law judge of the office of administrative hearings shall hear and determine the appeal. Appeal proceedings must be conducted under chapter 34.05 RCW. An appeal of the administrative law judge's determination or order must be to the superior court. The superior court's decision is subject only to discretionary review under the rules of appellate procedure.

Sec. 5. RCW 43.63B.170 and 1994 c 284 s 31 are each amended to read as follows:

(1) A person found to have committed an infraction under this chapter shall be assessed a monetary penalty of one thousand dollars.

(2) The administrative law judge may waive, reduce, or suspend the monetary penalty imposed for the infraction.

(3) Monetary penalties collected under this chapter shall be ~~((remitted as provided in chapter 3.62 RCW))~~ deposited into the manufactured home installation training account created in RCW 43.63B.080 (as recodified by this act) for the purposes specified in this chapter.

Sec. 6. RCW 43.22.431 and 2001 c 335 s 3 are each amended to read as follows:

The director of the department of labor and industries may enforce manufactured home safety and construction standards adopted by the secretary of housing and urban development under the national manufactured home construction and safety standards act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426). Furthermore, the director may make agreements with the United States government and private inspection organizations to implement the development and enforcement of applicable provisions of this chapter and the national manufactured home construction and safety standards act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426). Any fees or contract moneys collected under these agreements shall be deposited into the manufactured home installation training account created in RCW 43.63B.080 (as recodified by this act).

Sec. 7. RCW 43.22.495 and 1995 c 399 s 69 are each amended to read as follows:

Beginning on July 1, ~~((1991))~~ 2007, the department ~~((of community, trade, and economic development))~~ of labor and industries shall ((be responsible for performing)) perform all the consumer complaint and related functions of the state administrative agency that are required for purposes of complying with the regulations established by the federal department of housing and urban development for manufactured housing, including the preparation and submission of the state administrative plan.

The department ~~((of community, trade, and economic development))~~ of labor and industries may enter into state or local interagency agreements to coordinate site inspection activities with record monitoring and complaint handling. The interagency agreement may also provide for the reimbursement for cost of work that an agency performs. The department may include other related areas in any interagency agreements which are necessary for the efficient provision of services.

The directors of the department of community, trade, and economic development and the department of labor and industries shall immediately take such steps as are necessary to ensure that ~~((chapter 176, Laws of 1990))~~ this act is implemented on ((June 7, 1990)) July 1, 2007.

Sec. 8. RCW 46.70.136 and 1994 c 284 s 12 are each amended to read as follows:

The department may mediate disputes that arise regarding any warranty required in chapter 46.70 RCW pertaining to the purchase or installation of a manufactured home. The

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department may charge reasonable fees for this service and shall deposit the moneys collected in accordance with RCW 43.63B.080 (as recodified by this act).

Sec. 9. RCW 59.22.050 and 1991 c 327 s 3 are each amended to read as follows:

(1) In order to provide general assistance to mobile home resident organizations, park owners, and landlords and tenants, the department shall establish an office of mobile home affairs ~~((which will serve as the coordinating office within state government for matters relating to mobile homes or manufactured housing)).~~

This office will provide an ombudsman service to mobile home park owners and mobile home tenants with respect to problems and disputes between park owners and park residents and to provide technical assistance to resident organizations or persons in the process of forming a resident organization pursuant to chapter 59.22 RCW. The office will keep records of its activities in this area.

~~((The office shall perform all the consumer complaint and related functions of the state administrative agency that are required for purposes of complying with the regulations established by the federal department of housing and urban development for manufactured housing, including the preparation and submission of the state administrative plan.~~

~~((3)))~~ The office shall administer the mobile home relocation assistance program established in chapter 59.21 RCW, including verifying the eligibility of tenants for relocation assistance.

Sec. 10. RCW 59.22.070 and 1995 c 399 s 156 are each amended to read as follows:

There is created in the custody of the state treasurer a special account known as the ~~((mobile home affairs))~~ manufactured housing account.

Disbursements from this special account shall be as follows:

(1) For the two-year period beginning July 1, 1988, forty thousand dollars, or so much thereof as may be necessary for costs incurred in registering landlords and collecting fees, and thereafter five thousand dollars per year for that purpose.

(2) All remaining amounts shall be remitted to the department for the purpose of implementing RCW 59.22.050 ~~((and 59.22.060)), except those funds needed to implement the state administrative agency function and manufactured home installation training and certification program under chapter 43.-~~ RCW (as created in section 13 of this act), as well as all appropriated and nonappropriated funds related to department of labor and industries functions.

Sec. 11. RCW 43.63B.070 and 1994 c 284 s 22 are each amended to read as follows:

(1) The department shall charge reasonable fees to cover the costs to administer the certification program which shall include but not be limited to the issuance, renewal, and reinstatement of all certificates, training courses, and examinations required under this chapter. All fees collected under this chapter shall be deposited in the manufactured home installation training account created in RCW 43.63B.080 and used only for the purposes specified in this chapter.

The fees shall be limited to covering the direct cost of issuing the certificates, administering the examinations, and administering and enforcing this chapter. The costs shall include only essential travel, per diem, and administrative support costs.

(2) For the purposes of implementing this act, until July 1, 2008, the department may increase fees for the certification program in excess of the fiscal growth factor under chapter 43.135 RCW.

NEW SECTION. Sec. 12. (1) All powers, duties, and functions of the department of community, trade, and economic development pertaining to mobile and manufactured home installation are transferred to the department of labor and industries.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of community, trade, and economic development pertaining to the

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powers, functions, and duties transferred shall be delivered to the custody of the department of labor and industries. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of community, trade, and economic development in carrying out the powers, functions, and duties transferred shall be made available to the department of labor and industries. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of labor and industries.

(b) Any appropriations made to the department of community, trade, and economic development for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the department of labor and industries.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of community, trade, and economic development engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of labor and industries. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of labor and industries to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of community, trade, and economic development pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of labor and industries. All existing contracts and obligations shall remain in full force and shall be performed by the department of labor and industries.

(5) The transfer of the powers, duties, functions, and personnel of the department of community, trade, and economic development shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) 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 by action of the personnel resources board as provided by law.

NEW SECTION. Sec. 13. The following sections are each recodified as a new chapter in Title 43 RCW: RCW 43.63B.005, 43.63B.010, 43.63B.020, 43.63B.030, 43.63B.035, 43.63B.040, 43.63B.050, 43.63B.060, 43.63B.070, 43.63B.080, 43.63B.090, 43.63B.100, 43.63B.110, 43.63B.120, 43.63B.130, 43.63B.140, 43.63B.150, 43.63B.160, 43.63B.170, 43.63B.800, 43.63B.900, 43.63B.901, 43.63A.460, 43.63A.465, and 46.70.136.

NEW SECTION. Sec. 14. 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.

NEW SECTION. Sec. 15. Section 2 of this act expires if the contingency in RCW 43.63A.490 occurs."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the

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Committee on Consumer Protection & Housing to Substitute House Bill No. 2118.

The motion by Senator Weinstein 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 "industries;" strike the remainder of the title and insert "amending RCW 43.63A.460, 43.63A.465, 43.63B.010, 43.63B.150, 43.63B.170, 43.22.431, 43.22.495, 46.70.136, 59.22.050, 59.22.070, and 43.63B.070; adding a new chapter to Title 43 RCW; creating a new section; recodifying RCW 43.63B.005, 43.63B.010, 43.63B.020, 43.63B.030, 43.63B.035, 43.63B.040, 43.63B.050, 43.63B.060, 43.63B.070, 43.63B.080, 43.63B.090, 43.63B.100, 43.63B.110, 43.63B.120, 43.63B.130, 43.63B.140, 43.63B.150, 43.63B.160, 43.63B.170, 43.63B.800, 43.63B.900, 43.63B.901, 43.63A.460, 43.63A.465, and 46.70.136; providing a contingent expiration date; and declaring an emergency."

MOTION

On motion of Senator Weinstein, the rules were suspended, Substitute House Bill No. 2118 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 and Honeyford spoke in favor of passage of the bill.

MOTION

On motion of Senator Regala, Senators Brown and Poulsen were excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2118 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2118 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 42; Nays, 3; Absent, 1; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hobbs, Honeyford, Jacobsen, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 42

Voting nay: Senators Hargrove, Hewitt and Holmquist - 3
Absent: Senator Kline - 1

Excused: Senators Brown, Kastama and Poulsen - 3

SUBSTITUTE HOUSE BILL NO. 2118 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. 1843, by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Condotta, Chandler and Moeller)

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Modifying provisions regulating contractors.

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 1843 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Clements 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. 1843.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1843 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Brown and Poulsen - 2

SUBSTITUTE HOUSE BILL NO. 1843, 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. 2154, by Representatives Fromhold, Priest, P. Sullivan, Quall, Kenney and Moeller

Regarding election dates for educational service district board members.

The measure was read the second time.

MOTION

On motion of Senator Tom, the rules were suspended, House Bill No. 2154 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Tom and Holmquist 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. 2154.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2154 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig,

Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Excused: Senator Brown - 1

HOUSE BILL NO. 2154, 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. 2130, by House Committee on Judiciary (originally sponsored by Representatives Goodman, Lantz, Moeller and Rodne)

Providing a means to determine "prior offenses" to implement chapter 73, Laws of 2006, regarding driving under the influence.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 2130 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2130.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2130 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Excused: Senator Brown - 1

SUBSTITUTE HOUSE BILL NO. 2130, 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. 2152, by Representatives Appleton, Seaquist, Rolfes, Haigh, Eickmeyer, Lantz and Ormsby

Regarding election certification.

The measure was read the second time.

MOTION

On motion of Senator Oemig, the rules were suspended, House Bill No. 2152 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Oemig spoke in favor of passage of the bill.

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The President declared the question before the Senate to be the final passage of House Bill No. 2152.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2152 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yeas: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

HOUSE BILL NO. 2152, 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. 1106, by House Committee on Appropriations (originally sponsored by Representatives Campbell, Chase, Hankins, Morrell, Appleton, Hudgins, McDermott and Wallace)

Requiring reporting of hospital-acquired infections in health care facilities.

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 not adopted.

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. The legislature finds that each year health care-associated infections affect two million Americans. These infections result in the unnecessary death of ninety thousand patients and costs the health care system 4.5 billion dollars. Hospitals should be implementing evidence-based measures to reduce hospital-acquired infections. The legislature further finds the public should have access to data on outcome measures regarding hospital-acquired infections. Data reporting should be consistent with national hospital reporting standards.

NEW SECTION. Sec. 2. A new section is added to chapter 43.70 RCW to read as follows:

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

(a) "Health care-associated infection" means a localized or systemic condition that results from adverse reaction to the presence of an infectious agent or its toxins and that was not present or incubating at the time of admission to the hospital.

(b) "Hospital" means a health care facility licensed under chapter 70.41 RCW.

(2)(a) A hospital shall collect data related to health care-associated infections as required under this subsection (2) on the following:

(i) Beginning July 1, 2008, central line-associated bloodstream infection in the intensive care unit;

(ii) Beginning January 1, 2009, ventilator-associated pneumonia; and

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(iii) Beginning January 1, 2010, surgical site infection for the following procedures:

(A) Deep sternal wound for cardiac surgery, including coronary artery bypass graft

(B) Total hip and knee replacement surgery; and

(C) Hysterectomy, abdominal and vaginal.

(b) Until required otherwise under (c) of this subsection, a hospital must routinely collect and submit the data required to be collected under (a) of this subsection to the national healthcare safety network of the United States centers for disease control and prevention in accordance with national healthcare safety network definitions, methods, requirements, and procedures.

(c)(i) With respect to any of the health care-associated infection measures for which reporting is required under (a) of this subsection, the department must, by rule, require hospitals to collect and submit the data to the centers for medicare and medicaid services according to the definitions, methods, requirements, and procedures of the hospital compare program, or its successor, instead of to the national healthcare safety network, if the department determines that:

(A) The measure is available for reporting under the hospital compare program, or its successor, under substantially the same definition; and

(B) Reporting under this subsection (2)(c) will provide substantially the same information to the public.

(i) If the department determines that reporting of a measure must be conducted under this subsection (2)(c), the department must adopt rules to implement such reporting. The department's rules must require reporting to the centers for medicare and medicaid services as soon as practicable, but not more than one hundred twenty days, after the centers for medicare and medicaid services allow hospitals to report the respective measure to the hospital compare program, or its successor. However, if the centers for medicare and medicaid services allow infection rates to be reported using the centers for disease control and prevention's national healthcare safety network, the department's rules must require reporting that reduces the burden of data reporting and minimizes changes that hospitals must make to accommodate requirements for reporting.

(d) Data collection and submission required under this subsection (2) must be overseen by a qualified individual with the appropriate level of skill and knowledge to oversee data collection and submission.

(e)(i) A hospital must release to the department, or grant the department access to, its hospital-specific information contained in the reports submitted under this subsection (2), as requested by the department.

(ii) The hospital reports obtained by the department under this subsection (2), and any of the information contained in them, are not subject to discovery by subpoena or admissible as evidence in a civil proceeding, and are not subject to public disclosure as provided in RCW 42.56.360.

(3) The department shall:

(a) Provide oversight of the health care-associated infection reporting program established in this section;

(b) By January 1, 2011, submit a report to the appropriate committees of the legislature based on the recommendations of the advisory committee established in subsection (5) of this section for additional reporting requirements related to health care-associated infections, considering the methodologies and practices of the United States centers for disease control and prevention, the centers for medicare and medicaid services, the joint commission, the national quality forum, the institute for healthcare improvement, and other relevant organizations;

(c) Delete, by rule, the reporting of categories that the department determines are no longer necessary to protect public health and safety;

(d) By December 1, 2009, and by each December 1st thereafter, prepare and publish a report on the department's web site that compares the health care-associated infection rates at

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individual hospitals in the state using the data reported in the previous calendar year pursuant to subsection (2) of this section. The department may update the reports quarterly. In developing a methodology for the report and determining its contents, the department shall consider the recommendations of the advisory committee established in subsection (5) of this section. The report is subject to the following:

(i) The report must disclose data in a format that does not release health information about any individual patient; and

(ii) The report must not include data if the department determines that a data set is too small or possesses other characteristics that make it otherwise unrepresentative of a hospital's particular ability to achieve a specific outcome; and

(e) Evaluate, on a regular basis, the quality and accuracy of health care-associated infection reporting required under subsection (2) of this section and the data collection, analysis, and reporting methodologies.

(4) The department may respond to requests for data and other information from the data required to be reported under subsection (2) of this section, at the requestor's expense, for special studies and analysis consistent with requirements for confidentiality of patient records.

(5)(a) The department shall establish an advisory committee which may include members representing infection control professionals and epidemiologists, licensed health care providers, nursing staff, organizations that represent health care providers and facilities, health maintenance organizations, health care payers and consumers, and the department. The advisory committee shall make recommendations to assist the department in carrying out its responsibilities under this section, including making recommendations on allowing a hospital to review and verify data to be released in the report and on excluding from the report selected data from certified critical access hospitals.

(b) In developing its recommendations, the advisory committee shall consider methodologies and practices related to health care-associated infections of the United States centers for disease control and prevention, the centers for medicare and medicaid services, the joint commission, the national quality forum, the institute for healthcare improvement, and other relevant organizations.

(6) The department shall adopt rules as necessary to carry out its responsibilities under this section.

Sec. 3. RCW 70.41.200 and 2005 c 291 s 3 and 2005 c 33 s 7 are each reenacted and amended to read as follows:

(1) Every hospital shall maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice. The program shall include at least the following:

(a) The establishment of a quality improvement committee with the responsibility to review the services rendered in the hospital, both retrospectively and prospectively, in order to improve the quality of medical care of patients and to prevent medical malpractice. The committee shall oversee and coordinate the quality improvement and medical malpractice prevention program and shall ensure that information gathered pursuant to the program is used to review and to revise hospital policies and procedures;

(b) A medical staff privileges sanction procedure through which credentials, physical and mental capacity, and competence in delivering health care services are periodically reviewed as part of an evaluation of staff privileges;

(c) The periodic review of the credentials, physical and mental capacity, and competence in delivering health care services of all persons who are employed or associated with the hospital;

(d) A procedure for the prompt resolution of grievances by patients or their representatives related to accidents, injuries, treatment, and other events that may result in claims of medical malpractice;

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(e) The maintenance and continuous collection of information concerning the hospital's experience with negative health care outcomes and incidents injurious to patients including health care-associated infections as defined in section 2 of this act, patient grievances, professional liability premiums, settlements, awards, costs incurred by the hospital for patient injury prevention, and safety improvement activities;

(f) The maintenance of relevant and appropriate information gathered pursuant to (a) through (e) of this subsection concerning individual physicians within the physician's personnel or credential file maintained by the hospital;

(g) Education programs dealing with quality improvement, patient safety, medication errors, injury prevention, infection control, staff responsibility to report professional misconduct, the legal aspects of patient care, improved communication with patients, and causes of malpractice claims for staff personnel engaged in patient care activities; and

(h) Policies to ensure compliance with the reporting requirements of this section.

(2) Any person who, in substantial good faith, provides information to further the purposes of the quality improvement and medical malpractice prevention program or who, in substantial good faith, participates on the quality improvement committee shall not be subject to an action for civil damages or other relief as a result of such activity. Any person or entity participating in a coordinated quality improvement program that, in substantial good faith, shares information or documents with one or more other programs, committees, or boards under subsection (8) of this section is not subject to an action for civil damages or other relief as a result of the activity. For the purposes of this section, sharing information is presumed to be in substantial good faith. However, the presumption may be rebutted upon a showing of clear, cogent, and convincing evidence that the information shared was knowingly false or deliberately misleading.

(3) Information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee are not subject to review or disclosure, except as provided in this section, or discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any and the reasons for the restrictions; or (e) in any civil action, discovery and introduction into evidence of the patient's medical records required by regulation of the department of health to be made regarding the care and treatment received.

(4) Each quality improvement committee shall, on at least a semiannual basis, report to the governing board of the hospital in which the committee is located. The report shall review the quality improvement activities conducted by the committee, and any actions taken as a result of those activities.

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(5) The department of health shall adopt such rules as are deemed appropriate to effectuate the purposes of this section.

(6) The medical quality assurance commission or the board of osteopathic medicine and surgery, as appropriate, may review and audit the records of committee decisions in which a physician's privileges are terminated or restricted. Each hospital shall produce and make accessible to the commission or board the appropriate records and otherwise facilitate the review and audit. Information so gained shall not be subject to the discovery process and confidentiality shall be respected as required by subsection (3) of this section. Failure of a hospital to comply with this subsection is punishable by a civil penalty not to exceed two hundred fifty dollars.

(7) The department, the joint commission on accreditation of health care organizations, and any other accrediting organization may review and audit the records of a quality improvement committee or peer review committee in connection with their inspection and review of hospitals. Information so obtained shall not be subject to the discovery process, and confidentiality shall be respected as required by subsection (3) of this section. Each hospital shall produce and make accessible to the department the appropriate records and otherwise facilitate the review and audit.

(8) A coordinated quality improvement program may share information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee or a peer review committee under RCW 4.24.250 with one or more other coordinated quality improvement programs maintained in accordance with this section or RCW 43.70.510, a quality assurance committee maintained in accordance with RCW 18.20.390 or 74.42.640, or a peer review committee under RCW 4.24.250, for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice. The privacy protections of chapter 70.02 RCW and the federal health insurance portability and accountability act of 1996 and its implementing regulations apply to the sharing of individually identifiable patient information held by a coordinated quality improvement program. Any rules necessary to implement this section shall meet the requirements of applicable federal and state privacy laws. Information and documents disclosed by one coordinated quality improvement program to another coordinated quality improvement program or a peer review committee under RCW 4.24.250 and any information and documents created or maintained as a result of the sharing of information and documents shall not be subject to the discovery process and confidentiality shall be respected as required by subsection (3) of this section, RCW 18.20.390 (6) and (8), 74.42.640 (7) and (9), and 4.24.250.

(9) A hospital that operates a nursing home as defined in RCW 18.51.010 may conduct quality improvement activities for both the hospital and the nursing home through a quality improvement committee under this section, and such activities shall be subject to the provisions of subsections (2) through (8) of this section.

(10) Violation of this section shall not be considered negligence per se.

Sec. 4. RCW 42.56.360 and 2006 c 209 s 9 and 2006 c 8 s 112 are each reenacted and amended to read as follows:

(1) The following health care information is exempt from disclosure under this chapter:

(a) Information obtained by the board of pharmacy as provided in RCW 69.45.090;

(b) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420;

(c) Information and documents created specifically for, and collected and maintained by a quality improvement committee under RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640 or 18.20.390, or by a

hospital, as defined in section 2 of this act, for reporting of health care-associated infections under section 2 of this act, and notifications or reports of adverse events or incidents made under RCW 70.56.020 or 70.56.040, regardless of which agency is in possession of the information and documents;

(d)(i) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310;

(ii) If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this subsection (1)(d) as exempt from disclosure;

(iii) If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality;

(e) Records of the entity obtained in an action under RCW 18.71.300 through 18.71.340;

(f) Except for published statistical compilations and reports relating to the infant mortality review studies that do not identify individual cases and sources of information, any records or documents obtained, prepared, or maintained by the local health department for the purposes of an infant mortality review conducted by the department of health under RCW 70.05.170; and

(g) Complaints filed under chapter 18.130 RCW after July 27, 1997, to the extent provided in RCW 18.130.095(1).

(2) Chapter 70.02 RCW applies to public inspection and copying of health care information of patients.

NEW SECTION. Sec. 5. A new section is added to chapter 43.70 RCW to read as follows:

The hospital infection control grant account is created in the custody of the state treasury. All receipts from gifts, grants, bequests, devises, or other funds from public or private sources to support its activities must be deposited into the account. Expenditures from the account may be used only for awarding hospital infection control grants to hospitals and public agencies for establishing and maintaining hospital infection control and surveillance programs, for providing support for such programs, and for the administrative costs associated with the grant program. Only the secretary or the secretary's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. Sec. 6. A stakeholder group shall be convened by the department of health to review available data regarding existing infection control protocols at ambulatory surgical facilities. Based on its review of the data, the stakeholder group must make a recommendation to the department no later than December 15, 2008, regarding whether these facilities should be included within the coverage of this act. The department must report the stakeholder group recommendation to the appropriate committees of the legislature by January 1, 2009.

NEW SECTION. Sec. 7. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2007, in the omnibus appropriations act, this act is null and void."

On page 1, line 2 of the title, after "facilities;" strike the remainder of the title and insert "reenacting and amending RCW 70.41.200 and 42.56.360; adding new sections to chapter 43.70 RCW; and creating new sections."

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The President declared the question before the Senate to be the motion by Senator Keiser to not adopt the committee striking amendment by the Committee on Health & Long-Term Care to Second Substitute House Bill No. 1106.

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

MOTION

Senator Keiser moved that the following striking amendment by Senators Keiser and Pflug be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that each year health care-associated infections affect two million Americans. These infections result in the unnecessary death of ninety thousand patients and costs the health care system 4.5 billion dollars. Hospitals should be implementing evidence-based measures to reduce hospital-acquired infections. The legislature further finds the public should have access to data on outcome measures regarding hospital-acquired infections. Data reporting should be consistent with national hospital reporting standards.

NEW SECTION. Sec. 2. A new section is added to chapter 43.70 RCW to read as follows:

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

(a) "Health care-associated infection" means a localized or systemic condition that results from adverse reaction to the presence of an infectious agent or its toxins and that was not present or incubating at the time of admission to the hospital.

(b) "Hospital" means a health care facility licensed under chapter 70.41 RCW.

(2)(a) A hospital shall collect data related to health care-associated infections as required under this subsection (2) on the following:

(i) Beginning July 1, 2008, central line-associated bloodstream infection in the intensive care unit;

(ii) Beginning January 1, 2009, ventilator-associated pneumonia; and

(iii) Beginning January 1, 2010, surgical site infection for the following procedures:

(A) Deep sternal wound for cardiac surgery, including coronary artery bypass graft;

(B) Total hip and knee replacement surgery; and

(C) Hysterectomy, abdominal and vaginal.

(b) Until required otherwise under (c) of this subsection, a hospital must routinely collect and submit the data required to be collected under (a) of this subsection to the national healthcare safety network of the United States centers for disease control and prevention in accordance with national healthcare safety network definitions, methods, requirements, and procedures.

(c)(i) With respect to any of the health care-associated infection measures for which reporting is required under (a) of this subsection, the department must, by rule, require hospitals to collect and submit the data to the centers for medicare and medicaid services according to the definitions, methods, requirements, and procedures of the hospital compare program, or its successor, instead of to the national healthcare safety network, if the department determines that:

(A) The measure is available for reporting under the hospital compare program, or its successor, under substantially the same definition; and

(B) Reporting under this subsection (2)(c) will provide substantially the same information to the public.

(ii) If the department determines that reporting of a measure must be conducted under this subsection (2)(c), the department must adopt rules to implement such reporting. The department's rules must require reporting to the centers for medicare and medicaid services as soon as practicable, but not more than one

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hundred twenty days, after the centers for medicare and medicaid services allow hospitals to report the respective measure to the hospital compare program, or its successor. However, if the centers for medicare and medicaid services allow infection rates to be reported using the centers for disease control and prevention's national healthcare safety network, the department's rules must require reporting that reduces the burden of data reporting and minimizes changes that hospitals must make to accommodate requirements for reporting.

(d) Data collection and submission required under this subsection (2) must be overseen by a qualified individual with the appropriate level of skill and knowledge to oversee data collection and submission.

(e)(i) A hospital must release to the department, or grant the department access to, its hospital-specific information contained in the reports submitted under this subsection (2), as requested by the department.

(ii) The hospital reports obtained by the department under this subsection (2), and any of the information contained in them, are not subject to discovery by subpoena or admissible as evidence in a civil proceeding, and are not subject to public disclosure as provided in RCW 42.56.360.

(3) The department shall:

(a) Provide oversight of the health care-associated infection reporting program established in this section;

(b) By January 1, 2011, submit a report to the appropriate committees of the legislature based on the recommendations of the advisory committee established in subsection (5) of this section for additional reporting requirements related to health care-associated infections, considering the methodologies and practices of the United States centers for disease control and prevention, the centers for medicare and medicaid services, the joint commission, the national quality forum, the institute for healthcare improvement, and other relevant organizations;

(c) Delete, by rule, the reporting of categories that the department determines are no longer necessary to protect public health and safety;

(d) By December 1, 2009, and by each December 1st thereafter, prepare and publish a report on the department's web site that compares the health care-associated infection rates at individual hospitals in the state using the data reported in the previous calendar year pursuant to subsection (2) of this section. The department may update the reports quarterly. In developing a methodology for the report and determining its contents, the department shall consider the recommendations of the advisory committee established in subsection (5) of this section. The report is subject to the following:

(i) The report must disclose data in a format that does not release health information about any individual patient; and

(ii) The report must not include data if the department determines that a data set is too small or possesses other characteristics that make it otherwise unrepresentative of a hospital's particular ability to achieve a specific outcome; and

(e) Evaluate, on a regular basis, the quality and accuracy of health care-associated infection reporting required under subsection (2) of this section and the data collection, analysis, and reporting methodologies.

(4) The department may respond to requests for data and other information from the data required to be reported under subsection (2) of this section, at the requestor's expense, for special studies and analysis consistent with requirements for confidentiality of patient records.

(5)(a) The department shall establish an advisory committee which may include members representing infection control professionals and epidemiologists, licensed health care providers, nursing staff, organizations that represent health care providers and facilities, health maintenance organizations, health care payers and consumers, and the department. The advisory committee shall make recommendations to assist the department in carrying out its responsibilities under this section, including making recommendations on allowing a hospital to

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review and verify data to be released in the report and on excluding from the report selected data from certified critical access hospitals.

(b) In developing its recommendations, the advisory committee shall consider methodologies and practices related to health care-associated infections of the United States centers for disease control and prevention, the centers for medicare and medicaid services, the joint commission, the national quality forum, the institute for healthcare improvement, and other relevant organizations.

(6) The department shall adopt rules as necessary to carry out its responsibilities under this section.

Sec. 3. RCW 70.41.200 and 2005 c 291 s 3 and 2005 c 33 s 7 are each reenacted and amended to read as follows:

(1) Every hospital shall maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice. The program shall include at least the following:

(a) The establishment of a quality improvement committee with the responsibility to review the services rendered in the hospital, both retrospectively and prospectively, in order to improve the quality of medical care of patients and to prevent medical malpractice. The committee shall oversee and coordinate the quality improvement and medical malpractice prevention program and shall ensure that information gathered pursuant to the program is used to review and to revise hospital policies and procedures;

(b) A medical staff privileges sanction procedure through which credentials, physical and mental capacity, and competence in delivering health care services are periodically reviewed as part of an evaluation of staff privileges;

(c) The periodic review of the credentials, physical and mental capacity, and competence in delivering health care services of all persons who are employed or associated with the hospital;

(d) A procedure for the prompt resolution of grievances by patients or their representatives related to accidents, injuries, treatment, and other events that may result in claims of medical malpractice;

(e) The maintenance and continuous collection of information concerning the hospital's experience with negative health care outcomes and incidents injurious to patients including health care-associated infections as defined in section 2 of this act, patient grievances, professional liability premiums, settlements, awards, costs incurred by the hospital for patient injury prevention, and safety improvement activities;

(f) The maintenance of relevant and appropriate information gathered pursuant to (a) through (e) of this subsection concerning individual physicians within the physician's personnel or credential file maintained by the hospital;

(g) Education programs dealing with quality improvement, patient safety, medication errors, injury prevention, infection control, staff responsibility to report professional misconduct, the legal aspects of patient care, improved communication with patients, and causes of malpractice claims for staff personnel engaged in patient care activities; and

(h) Policies to ensure compliance with the reporting requirements of this section.

(2) Any person who, in substantial good faith, provides information to further the purposes of the quality improvement and medical malpractice prevention program or who, in substantial good faith, participates on the quality improvement committee shall not be subject to an action for civil damages or other relief as a result of such activity. Any person or entity participating in a coordinated quality improvement program that, in substantial good faith, shares information or documents with one or more other programs, committees, or boards under subsection (8) of this section is not subject to an action for civil damages or other relief as a result of the activity. For the purposes of this section, sharing information is presumed to be

in substantial good faith. However, the presumption may be rebutted upon a showing of clear, cogent, and convincing evidence that the information shared was knowingly false or deliberately misleading.

(3) Information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee are not subject to review or disclosure, except as provided in this section, or discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any and the reasons for the restrictions; or (e) in any civil action, discovery and introduction into evidence of the patient's medical records required by regulation of the department of health to be made regarding the care and treatment received.

(4) Each quality improvement committee shall, on at least a semiannual basis, report to the governing board of the hospital in which the committee is located. The report shall review the quality improvement activities conducted by the committee, and any actions taken as a result of those activities.

(5) The department of health shall adopt such rules as are deemed appropriate to effectuate the purposes of this section.

(6) The medical quality assurance commission or the board of osteopathic medicine and surgery, as appropriate, may review and audit the records of committee decisions in which a physician's privileges are terminated or restricted. Each hospital shall produce and make accessible to the commission or board the appropriate records and otherwise facilitate the review and audit. Information so gained shall not be subject to the discovery process and confidentiality shall be respected as required by subsection (3) of this section. Failure of a hospital to comply with this subsection is punishable by a civil penalty not to exceed two hundred fifty dollars.

(7) The department, the joint commission on accreditation of health care organizations, and any other accrediting organization may review and audit the records of a quality improvement committee or peer review committee in connection with their inspection and review of hospitals. Information so obtained shall not be subject to the discovery process, and confidentiality shall be respected as required by subsection (3) of this section. Each hospital shall produce and make accessible to the department the appropriate records and otherwise facilitate the review and audit.

(8) A coordinated quality improvement program may share information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee or a peer review committee under RCW 4.24.250 with one or more other coordinated quality improvement programs maintained in accordance with this section or RCW 43.70.510, a quality assurance committee maintained in accordance with RCW 18.20.390 or 74.42.640, or a peer review committee under RCW 4.24.250, for the improvement of the quality of health care

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services rendered to patients and the identification and prevention of medical malpractice. The privacy protections of chapter 70.02 RCW and the federal health insurance portability and accountability act of 1996 and its implementing regulations apply to the sharing of individually identifiable patient information held by a coordinated quality improvement program. Any rules necessary to implement this section shall meet the requirements of applicable federal and state privacy laws. Information and documents disclosed by one coordinated quality improvement program to another coordinated quality improvement program or a peer review committee under RCW 4.24.250 and any information and documents created or maintained as a result of the sharing of information and documents shall not be subject to the discovery process and confidentiality shall be respected as required by subsection (3) of this section, RCW 18.20.390 (6) and (8), 74.42.640 (7) and (9), and 4.24.250.

(9) A hospital that operates a nursing home as defined in RCW 18.51.010 may conduct quality improvement activities for both the hospital and the nursing home through a quality improvement committee under this section, and such activities shall be subject to the provisions of subsections (2) through (8) of this section.

(10) Violation of this section shall not be considered negligence per se.

Sec. 4. RCW 42.56.360 and 2006 c 209 s 9 and 2006 c 8 s 112 are each reenacted and amended to read as follows:

(1) The following health care information is exempt from disclosure under this chapter:

(a) Information obtained by the board of pharmacy as provided in RCW 69.45.090;

(b) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420;

(c) Information and documents created specifically for, and collected and maintained by a quality improvement committee under RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640 or 18.20.390, or by a hospital, as defined in section 2 of this act, for reporting of health care-associated infections under section 2 of this act, and notifications or reports of adverse events or incidents made under RCW 70.56.020 or 70.56.040, regardless of which agency is in possession of the information and documents;

(d)(i) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310;

(ii) If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this subsection (1)(d) as exempt from disclosure;

(iii) If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality;

(e) Records of the entity obtained in an action under RCW 18.71.300 through 18.71.340;

(f) Except for published statistical compilations and reports relating to the infant mortality review studies that do not identify individual cases and sources of information, any records or documents obtained, prepared, or maintained by the local health department for the purposes of an infant mortality review conducted by the department of health under RCW 70.05.170; and

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(g) Complaints filed under chapter 18.130 RCW after July 27, 1997, to the extent provided in RCW 18.130.095(1).

(2) Chapter 70.02 RCW applies to public inspection and copying of health care information of patients.

NEW SECTION. Sec. 5. A new section is added to chapter 43.70 RCW to read as follows:

The hospital infection control grant account is created in the custody of the state treasury. All receipts from gifts, grants, bequests, devises, or other funds from public or private sources to support its activities must be deposited into the account. Expenditures from the account may be used only for awarding hospital infection control grants to hospitals and public agencies for establishing and maintaining hospital infection control and surveillance programs, for providing support for such programs, and for the administrative costs associated with the grant program. Only the secretary or the secretary's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. Sec. 6. A stakeholder group shall be convened by the department of health to review available data regarding existing infection control protocols at ambulatory surgical facilities. Based on its review of the data, the stakeholder group must make a recommendation to the department no later than December 15, 2008, regarding whether these facilities should be included within the coverage of this act. The department must report the stakeholder group recommendation to the appropriate committees of the legislature by January 1, 2009.

NEW SECTION. Sec. 7. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2007, in the omnibus appropriations act, this act is null and void."

Senators Keiser and Pflug 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 Keiser and Pflug to Second Substitute House Bill No. 1106.

The motion by Senator Keiser 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 "facilities;" strike the remainder of the title and insert "reenacting and amending RCW 70.41.200 and 42.56.360; adding new sections to chapter 43.70 RCW; and creating new sections."

MOTION

On motion of Senator Keiser, the rules were suspended, Second Substitute House Bill No. 1106 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 Benton 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. 1106 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1106 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SECOND SUBSTITUTE HOUSE BILL NO. 1106 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. 2319, by Representatives Kagi, P. Sullivan, Wallace, Seaquist, Appleton, Morrell, Goodman, Santos, Wood, Ormsby and Kenney

Supporting early learning and parenting education opportunities at community colleges.

The measure was read the second time.

MOTION

On motion of Senator Shin, the rules were suspended, House Bill No. 2319 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Shin 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. 2319.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2319 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

HOUSE BILL NO. 2319, 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. 1064, by Representatives Seaquist, Morrell, Haigh, Kelley, Miloscia, Hunt, Appleton, Conway, P. Sullivan, McDonald, Haler, Wallace, Moeller, B. Sullivan, Kenney, Hunter, Chase, Ormsby, Upthegrove and Hurst

Addressing veterans' benefits.

The measure was read the second time.

MOTION

On motion of Senator Hobbs, the rules were suspended, House Bill No. 1064 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs 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. 1064.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1064 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

HOUSE BILL NO. 1064, 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. 1218, by Representatives Conway, Wood, Condotta, Kenney and Moeller

Modifying gambling commission powers and duties to temporarily issue, suspend, and renew licenses.

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, House Bill No. 1218 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Clements 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. 1218.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1218 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Absent: Senator Hargrove - 1

HOUSE BILL NO. 1218, 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.

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SECOND READING

SUBSTITUTE HOUSE BILL NO. 1654, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Appleton, Haigh and Hunt)

Modifying canvassing provisions.

The measure was read the second time.

MOTION

Senator Oemig 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.60.160 and 2005 c 243 s 15 and 2005 c 153 s 11 are each reenacted and amended to read as follows:

(1) Except for an election conducted under the instant runoff voting method for the pilot project authorized by RCW 29A.53.020, (([and] except Sundays and legal holidays.)) the county auditor, as delegated by the county canvassing board, shall process absentee ballots and canvass the votes cast at that primary or election on a daily basis in counties with a population of seventy-five thousand or more, or at least every third day for counties with a population of less than seventy-five thousand, if the county auditor is in possession of more than ((twenty-five)) five hundred ballots that have yet to be canvassed. ((The county auditor, as delegated by the county canvassing board, may use his or her discretion in determining when to process the remaining absentee ballots and canvass the votes during the final four days before the certification of election results in order to protect the secrecy of any ballot. In counties where this process has not been delegated to the county auditor, the county auditor shall convene the county canvassing board to process absentee ballots and canvass the votes cast at the primary or election as set forth in this section.

— Except for an election conducted under the instant runoff voting method for the pilot project authorized by RCW 29A.53.020, each absentee ballot previously not canvassed that was received by the county auditor two days or more before processing absentee ballots and canvassing the votes as delegated by or processed by the county canvassing board, that either was received by the county auditor before the closing of the polls on the day of the primary or election for which it was issued, or that bears a postmark on or before the primary or election for which it was issued, must be processed at that time. The tabulation of votes that results from that day's canvass must be made available to the general public immediately upon completion of the canvass.))

(2) Saturdays, Sundays, and legal holidays are not counted for purposes of this section.

(3) In order to protect the secrecy of a ballot, the county auditor may use discretion to decide when to process absentee ballots and canvass the votes.

(4) Tabulation results must be made available to the public immediately upon completion of the canvass.

Sec. 2. RCW 29A.60.160 and 2005 c 243 s 15 are each amended to read as follows:

((Except Sundays and legal holidays.)) (1) The county auditor, as delegated by the county canvassing board, shall process absentee ballots and canvass the votes cast at that primary or election on a daily basis in counties with a population of seventy-five thousand or more, or at least every third day for counties with a population of less than seventy-five thousand, if the county auditor is in possession of more than ((twenty-five)) five hundred ballots that have yet to be canvassed. ((The county auditor, as delegated by the county canvassing board, may use his or her discretion in determining

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when to process the remaining absentee ballots and canvass the votes during the final four days before the certification of election results in order to protect the secrecy of any ballot. In counties where this process has not been delegated to the county auditor, the county auditor shall convene the county canvassing board to process absentee ballots and canvass the votes cast at the primary or election as set forth in this section.

— Each absentee ballot previously not canvassed that was received by the county auditor two days or more before processing absentee ballots and canvassing the votes as delegated by or processed by the county canvassing board, that either was received by the county auditor before the closing of the polls on the day of the primary or election for which it was issued, or that bears a postmark on or before the primary or election for which it was issued, must be processed at that time. The tabulation of votes that results from that day's canvass must be made available to the general public immediately upon completion of the canvass.))

(2) Saturdays, Sundays, and legal holidays are not counted for purposes of this section.

(3) In order to protect the secrecy of a ballot, the county auditor may use discretion to decide when to process absentee ballots and canvass the votes.

(4) Tabulation results must be made available to the public immediately upon completion of the canvass.

Sec. 3. RCW 29A.60.170 and 2003 c 111 s 1517 are each amended to read as follows:

(1) The counting center in a county using voting systems is under the direction of the county auditor and must be observed by one representative from each major political party, if representatives have been appointed by the respective major political parties and these representatives are present while the counting center is operating. The proceedings must be open to the public, but no persons except those employed and authorized by the county auditor may touch any ballot or ballot container or operate a vote tallying system.

(2) In counties in which ballots are not counted at the polling place, the official political party observers, upon mutual agreement, may request that a precinct be selected at random on receipt of the ballots from the polling place and that a manual count be made of the number of ballots and of the votes cast on any office or issue. The ballots for that precinct must then be counted by the vote tallying system, and this result will be compared to the results of the manual count. This may be done as many as three times during the tabulation of ballots on the day of the primary or election.

(3) In counties using poll-site ballot counting devices, the political party observers, upon mutual agreement, may choose as many as three precincts and request that a manual count be made of the number of ballots and the votes cast on any office or issue. The results of this count will be compared to the count of the precinct made by the poll-site ballot counting device. These selections must be made no later than thirty minutes after the close of the polls. The manual count must be completed within forty-eight hours after the close of the polls. The process must take place at a location designated by the county auditor for that purpose. The political party observers must receive timely notice of the time and location, and have the right to be present. However, the process must proceed as scheduled if the observers are unable to attend.

(4) In counties voting entirely by mail, a random check of the ballot counting equipment may be conducted upon mutual agreement of the political party observers or at the discretion of the county auditor. The random check procedures must be adopted by the county canvassing board prior to the processing of ballots. The random check process shall involve a comparison of a manual count to the machine count and may involve up to either three precincts or six batches depending on the ballot counting procedures in place in the county. The random check will be limited to one office or issue on the ballots in the precincts or batches that are selected for the check.

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The selection of the precincts or batches to be checked must be selected according to procedures established by the county canvassing board and the check must be completed no later than forty-eight hours after election day.

SECOND READING

NEW SECTION. Sec. 4. Section 1 of this act expires July 1, 2013.

NEW SECTION. Sec. 5. Section 2 of this act takes effect July 1, 2013."

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. 1654.

The motion by Senator Oemig 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 "ballots;" strike the remainder of the title and insert "amending RCW 29A.60.160 and 29A.60.170; reenacting and amending RCW 29A.60.160; providing an effective date; and providing an expiration date."

MOTION

On motion of Senator Oemig, the rules were suspended, Substitute House Bill No. 1654 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 Oemig spoke in favor of passage of the bill.

MOTION

Senator Benton moved that further consideration of Substitute House Bill No. 1654 be deferred and the bill hold its place on the second reading calendar.

On motion of Senator Benton the motion by Senator Benton to defer consideration of Substitute House Bill No. 1654 was withdrawn.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1654 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1654 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 Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SUBSTITUTE HOUSE BILL NO. 1654 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.

SUBSTITUTE HOUSE BILL NO. 1298, by House Committee on Health Care & Wellness (originally sponsored by Representatives Green, Campbell, Cody, Morrell, Moeller and Conway)

Regarding dental hygienist employment by health care facilities and sealant programs in schools.

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 18.29.056 and 1997 c 37 s 2 are each amended to read as follows:

(1)(a) Subject to section 3 of this act and (c) of this subsection, dental hygienists licensed under this chapter with two years' practical clinical experience with a licensed dentist within the preceding five years may be employed or retained by health care facilities to perform authorized dental hygiene operations and services without dental supervision, limited to removal of deposits and stains from the surfaces of the teeth, application of topical preventive or prophylactic agents, polishing and smoothing restorations, and performance of root planing and soft-tissue curettage, but shall not perform injections of anesthetic agents, administration of nitrous oxide, or diagnosis for dental treatment.

(b) The performance of dental hygiene operations and services in health care facilities shall be limited to patients, students, and residents of the facilities.

(c) A dental hygienist employed or retained to perform services under this section in a senior center must, before providing services:

(i) Enter into a written practice arrangement plan, approved by the department, with a dentist licensed in this state, under which the dentist will provide off-site supervision of the dental services provided. This agreement does not create an obligation for the dentist to accept referrals of patients receiving services under the program;

(ii) Collect data on the patients treated by dental hygienists under the program, including age, treatments rendered, insurance coverage, if any, and patient referral to dentists. This data must be submitted to the department of health at the end of each annual quarter, commencing October 1, 2007; and

(iii) Obtain information from the patient's primary health care provider about any health conditions of the patient that would be relevant to the provision of preventive dental care. The information may be obtained by the dental hygienist's direct contact with the provider or through a written document from the provider that the patient presents to the dental hygienist.

(d) For dental planning and dental treatment, dental hygienists shall refer patients to licensed dentists.

(2) For the purposes of this section(2):

(a) "Health care facilities" are limited to hospitals; nursing homes; home health agencies; group homes serving the elderly, ((handicapped)) individuals with disabilities, and juveniles; state-operated institutions under the jurisdiction of the department of social and health services or the department of corrections; and federal, state, and local public health facilities, state or federally funded community and migrant health centers, and tribal clinics. Until July 1, 2009, "health care facilities" also include senior centers.

(b) "Senior center" means a multipurpose community facility operated and maintained by a nonprofit organization or local

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government for the organization and provision of a broad spectrum of health, social, nutritional, and educational services and recreational activities for persons sixty years of age or older.

Sec. 2. RCW 18.29.220 and 2001 c 93 s 3 are each amended to read as follows:

~~((+))~~ For low-income, rural, and other at-risk populations and in coordination with local public health jurisdictions and local oral health coalitions, a dental hygienist licensed in this state ~~((as of April 19, 2001,))~~ may assess for and apply sealants and apply fluoride varnishes, and may remove deposits and stains from the surfaces of teeth until July 1, 2009, in community-based sealant programs carried out in schools;

(1) Without attending the department's school sealant endorsement program~~(-)~~ if the dental hygienist was licensed as of April 19, 2001; or

~~(2) ((For low-income, rural, and other at-risk populations and in coordination with local public health jurisdictions and local oral health coalitions;)) If the dental hygienist((s who are)) is school sealant endorsed under RCW 43.70.650 ((may assess for and apply sealants and fluoride varnishes in community-based sealant programs carried out in schools)).~~

A hygienist providing services under this section must collect data on patients treated, including age, treatment rendered, methods of reimbursement for treatment, evidence of coordination with local public health jurisdictions and local oral health coalitions, and patient referrals to dentists. These data must be submitted to the department of health at the end of each annual quarter, commencing October 1, 2007.

NEW SECTION. Sec. 3. A new section is added to chapter 18.29 RCW to read as follows:

A dental hygienist participating in a program under RCW 18.29.056 that involves providing services at senior centers, as defined in RCW 18.29.056, or under RCW 18.29.220 that involves removing deposits and stains from the surfaces of teeth in a community-based sealant program must:

(1) Provide the patient or, if the patient is a minor, the parent or legal guardian of the patient, if reasonably available, with written information that includes at least the following:

(a) A notice that the treatment being given under the program is not a comprehensive oral health care service, but is provided as a preventive service only; and

(b) A recommendation that the patient should be examined by a licensed dentist for comprehensive oral health care services; and

(2) Assist the patient in obtaining a referral for further dental planning and treatment, including providing a written description of methods and sources by which a patient may obtain a referral, if needed, to a dentist, and a list of licensed dentists in the community. Written information should be provided to the parent on the potential needs of the patient.

NEW SECTION. Sec. 4. The secretary of health, in consultation with representatives of dental hygienists and dentists, shall provide a report to the appropriate committees of the legislature by December 1, 2008, that:

(1) Provides a summary of the information about patients receiving dental services in senior centers that is collected under RCW 18.29.056(1)(c)(ii), and in community-based sealant programs carried out in schools under RCW 18.29.220, and describing the dental health outcomes, including both effects on dental health and adverse incidents, if any, related to the services these patients receive under the programs; and

(2) Makes recommendations, as appropriate, with regard to the services that could be appropriately provided by dental hygienists in senior centers and community-based sealant programs carried out in schools, and the effects on dental health of patients treated."

The President 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. 1298.

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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 "hygiene;" strike the remainder of the title and insert "amending RCW 18.29.056 and 18.29.220; adding a new section to chapter 18.29 RCW; and creating a new section."

MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 1298 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 Pflug 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. 1298 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1298 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 Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SUBSTITUTE HOUSE BILL NO. 1298 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. 1379, by Representatives Hinkle, Green, Campbell, Cody and Morrell

Revising the qualifications of an applicant for licensure as a hearing instrument fitter/dispenser.

The measure was read the second time.

MOTION

On motion of Senator Pflug, the rules were suspended, Engrossed House Bill No. 1379 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pflug and Marr 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. 1379.

ROLL CALL

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The Secretary called the roll on the final passage of Engrossed House Bill No. 1379 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Absent: Senator Franklin - 1

ENGROSSED HOUSE BILL NO. 1379, 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. 1098 which had been deferred earlier in the day.

MOTION

On motion of Senator Keiser, the objection by Senator Keiser to the amendment by Senators Oemig and Rasmussen to the committee striking amendment was withdrawn.

MOTION

On motion of Senator Oemig, the motion to adopt the amendment by Senators Oemig and Rasmussen to the committee striking amendment was withdrawn.

The motion by Senator Oemig carried.

MOTION

On motion of Senator Keiser, the to adopt the committee striking amendment by the Committee on Health & Long Term Care to Substitute House Bill No. 1058 was withdrawn.

The motion by Senator Keiser carried.

MOTION

Senator Keiser moved that the committee striking amendment by the Committee on Health & Long-Term Care be not adopted.

The President declared the question before the Senate to be the motion by Senator Keiser to not adopt the committee striking amendment.

The motion by Senator Keiser carried and the committee striking amendment was not adopted.

MOTION

Senator Keiser moved that the following striking amendment by Senators Keiser and Oemig be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 70.95M.115 and 2006 c 231 s 2 are each amended to read as follows:

(1) Beginning July 1, 2007, a person who is known to be pregnant or who is under three years of age shall not be vaccinated with a mercury-containing vaccine or injected with a mercury-containing product that contains more than 0.5 micrograms of mercury per 0.5 milliliter dose.

(2) Notwithstanding subsection (1) of this section, an influenza vaccine may contain up to 1.0 micrograms of mercury per 0.5 milliliter dose.

(3) The secretary of the department of health may, upon the secretary's or local public health officer's declaration of (a public health emergency) an outbreak of vaccine-preventable disease or of a shortage of vaccine that complies with subsection (1) or (2) of this section, suspend the requirements of this section for the duration of the ((emergency)) outbreak or shortage.

(4) A person who is known to be pregnant or a parent or legal guardian of a child under eighteen years of age shall be informed if the person or child is to be vaccinated or injected with any mercury-containing product that contains more than the mercury limits per dose in subsections (1) and (2) of this section.

(5) All vaccines and products referenced under this section must meet food and drug administration licensing requirements."

Senators Keiser, Oemig and Pflug 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 Keiser and Oemig to Substitute House Bill No. 1098.

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

MOTION

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

On page 1, line 1 of the title, after "outbreaks;" strike the remainder of the title and insert "and amending RCW 70.95M.115."

MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 1098 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 Keiser 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. 1098 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1098 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 Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SUBSTITUTE HOUSE BILL NO. 1098 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

NINETY-FOURTH DAY, APRIL 11, 2007

At 8:55 p.m., on motion of Senator Eide, the Senate adjourned until 9:00 a.m. Thursday, April 12, 2007.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

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