

FIFTY-THIRD DAY

MORNING SESSION

Senate Chamber, Olympia, Thursday, March 2, 2006

The Senate was called to order at 9:00 a.m. by President Pro Tempore. The Secretary called the roll and announced to the President Pro Tempore that all Senators were present with the exception of Senators Finkbeiner, Johnson, Mulliken, Oke, Pflug, Swecker and Thibaudeau.

The Sergeant at Arms Color Guard consisting of Pages Jennifer Williams and Alex Freeman, presented the Colors. Pastor Mark Reitan of the Trinity Lutheran Church offered the prayer.

MOTION

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

MOTION

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

MESSAGE FROM THE GOVERNOR
GUBERNATORIAL APPOINTMENTS

March 2, 2006

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

DOUG MACDONALD, appointed February 22, 2006, for the term ending at the governor's pleasure, as Secretary of the Department of Transportation.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Transportation.

MOTION

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

MOTION

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

MESSAGE FROM THE HOUSE

February 28, 2006

MR. PRESIDENT:

The House has passed the following bill(s):

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3316 and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING

ESHB 3316 by House Committee on Capital Budget (originally sponsored by Representatives Dunshee, Linville, Grant and Kessler)

AN ACT Relating to authorizing state general obligation bonds for correctional facilities, Hood Canal and Puget Sound rehabilitation, and the Columbia river basin water supply development program; adding new chapters to Title 43 RCW; and declaring an emergency.

MOTION

On motion of Senator Eide, the measure listed on the Introduction and First Reading report, Engrossed Substitute House Bill No. 3316, was held at the desk.

MOTION

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

MOTION

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

THIRD READING

HOUSE BILL NO. 2520, by Representative Nixon.

Recodifying and making technical corrections to public disclosure law.

The bill was read on Third Reading.

Senator Kastama spoke in favor of passage of the bill.

MOTION

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

MOTION

On motion of Senator Regala, Senator Brown was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 2520.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2520 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 6; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Weinstein and Zarelli - 42

Absent: Senators Finkbeiner, Johnson, Oke, Pflug, Swecker and Thibaudeau - 6

Excused: Senator Mulliken - 1

HOUSE BILL NO. 2520, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

MOTION

On motion of Senator Eide, Senator Thibaudeau was excused.

MOTION

On motion of Senator Schoesler, Senators Finkbeiner, Johnson, Oke, Pflug, Swecker and Parlette were excused.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 3137, by House Committee on Transportation (originally sponsored by Representatives Lovick, Curtis, Clements, Hunt, Grant, Ericks, Conway, Morrell, Simpson and Kenney)

Determining benefits for surviving spouses of disabled Washington state patrol officers.

The measure was read the second time.

MOTION

On motion of Senator Fraser, the rules were suspended, Substitute House Bill No. 3137 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 3137.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3137 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Thibaudeau, Weinstein and Zarelli - 43

Excused: Senators Finkbeiner, Mulliken, Oke, Parlette, Pflug and Swecker - 6

SUBSTITUTE HOUSE BILL NO. 3137, 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. 3134, by Representatives Conway, Wood, Chase and Kenney

Determining the amount of compensation for temporary or permanent total disability.

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, House Bill No. 3134 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Honeyford spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 3134.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3134 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

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

Excused: Senators Finkbeiner, Mulliken, Oke, Parlette and Pflug - 5

HOUSE BILL NO. 3134, 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. 2713, by House Committee on State Government Operations & Accountability (originally sponsored by Representatives Simpson, Woods and Hunt)

Clarifying that state and local governing bodies may support or oppose ballot propositions.

The measure was read the second time.

MOTION

On motion of Senator Kastama, the rules were suspended, Substitute House Bill No. 2713 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kastama, Haugen, Jacobsen and Spanel spoke in favor of passage of the bill.

Senators Benton, Johnson and Roach spoke against passage of the bill.

MOTION

On motion of Senator Weinstein, Senator Hargrove was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2713.

ROLL CALL

The Secretary called the roll on the final passage of

FIFTY-THIRD DAY, MARCH 2, 2006

Substitute House Bill No. 2713 and the bill passed the Senate by the following vote: Yeas, 27; Nays, 20; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Brown, Delvin, Doumit, Eide, Fairley, Franklin, Fraser, Haugen, Jacobsen, Kastama, Kline, Kohl-Welles, McAuliffe, Oke, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schmidt, Sheldon, Shin, Spanel, Thibaudeau and Weinstein - 27

Voting nay: Senators Benson, Benton, Brandland, Carrell, Deccio, Esser, Finkbeiner, Hewitt, Honeyford, Johnson, Keiser, McCaslin, Morton, Mulliken, Parlette, Roach, Schoesler, Stevens, Swecker and Zarelli - 20

Excused: Senators Hargrove and Pflug - 2

SUBSTITUTE HOUSE BILL NO. 2713, 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 Brown and Hargrove were excused.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2479, by House Committee on State Government Operations & Accountability (originally sponsored by Representatives Haigh, Nixon, Green, Hunt, Haler, Morrell and Upthegrove)

Ensuring equipment accessibility for voters with visual impairments. Revised for 1st Substitute: Ensuring equipment accessibility for voters with visual impairments. (REVISED FOR ENGROSSED: Modifying provisions on voting equipment.)

The measure was read the second time.

MOTION

On motion of Senator Kastama, the rules were suspended, Engrossed Substitute House Bill No. 2479 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 Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2479.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2479 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

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

Absent: Senator Fraser - 1

Excused: Senators Brown and Hargrove - 2

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2479, having received the constitutional majority, was declared

2006 REGULAR SESSION

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. 2726, by House Committee on Appropriations (originally sponsored by Representatives Chase, Skinner, Kessler, Haler, Kilmer, Grant, Chandler, Blake, Clements, Linville, Newhouse, McCoy, Kristiansen, Kenney and Wallace)

Creating Washington manufacturing services in statute.

The measure was read the second time.

MOTION

On motion of Senator Shin, the rules were suspended, Substitute House Bill No. 2726 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 Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2726.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2726 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Brown and Hargrove - 2

SUBSTITUTE HOUSE BILL NO. 2726, 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. 2431, by House Committee on Appropriations (originally sponsored by Representatives Campbell, Morrell, Ericks, Moeller, Springer, B. Sullivan, Simpson, Green, Sells, O'Brien and Lantz)

Requiring background checks on persons licensed as health care professionals.

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. 2005 c 452 s 1 (uncodified) is reenacted and amended to read as follows:

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

(1) A joint task force on criminal background check processes is established. The joint task force shall consist of the following members:

(a) One member from each of the two largest caucuses of the senate, appointed by the president of the senate;

(b) One member from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives;

(c) The chief of the Washington state patrol, or the chief's designee;

(d) The secretary of the department of social and health services, or the secretary's designee;

(e) The secretary of the department of health, or the secretary's designee;

(f) The state superintendent of public instruction, or the superintendent's designee;

~~((f))~~ (g) An elected sheriff or police chief, selected by the Washington association of sheriffs and police chiefs; and

~~((g))~~ (h) The following ~~(eleven)~~ twelve members, jointly appointed by the speaker of the house of representatives and the president of the senate:

(i) A representative from a nonprofit service organization that serves primarily children under sixteen years of age;

(ii) A health care provider as defined in RCW 7.70.020;

(iii) A representative from a business or organization that primarily serves persons with a developmental disability;

(iv) A representative from a local youth athletic association;

(v) A representative from the insurance industry;

(vi) A representative of the Washington association of criminal defense lawyers;

(vii) Two representatives from a local parks and recreation program; one member shall be selected by the association of Washington cities and one member shall be selected by the Washington association of counties;

~~((vii))~~ (viii) A representative from a for-profit entity that primarily serves children;

~~((viii))~~ (ix) A representative from a business or organization that primarily serves vulnerable adults;

~~((ix))~~ (x) A representative selected by the state's long-term care ombudsman; and

~~((x))~~ (xi) As a nonvoting ex officio member, a representative of an organization that serves as a clearinghouse for other nonprofit organizations in the state and that recruits volunteers and trains nonprofit boards of directors.

(2) The task force shall choose two cochairs from among its membership.

(3) The task force shall review and make recommendations to the legislature and the governor regarding criminal background check policy in Washington state. In preparing the recommendations, the committee shall, at a minimum, review the following issues:

(a) What state and federal statutes require regarding criminal background checks, and determine whether any changes should be made;

(b) What criminal offenses are currently reportable through the criminal background check program, and determine whether any changes should be made;

(c) What information is available through the Washington state patrol and the federal bureau of investigation criminal background check systems, and determine whether any changes should be made;

(d) What are the best practices among organizations for obtaining criminal background checks on their employees and volunteers;

(e) What is the feasibility and costs for businesses and organizations to do periodic background checks;

(f) What is the feasibility of requiring all businesses and organizations, including nonprofit entities, to conduct criminal background checks for all employees, contractors, agents, and volunteers who have regularly scheduled supervised or unsupervised access to children, persons with a developmental disability, or vulnerable adults;

(g) What is the feasibility of establishing a state registration program for private youth sports coaches under which some or all of such persons are required to obtain and disclose to prospective clients and employers a copy of the results of their fingerprint-based criminal background checks;

(h) What is the feasibility of requiring the department of health to conduct background checks on all applicants for initial licenses to practice a health profession;

(i) What is the feasibility of requiring the department of health to review federal health care provider data banks for any actions taken against health care providers licensed in Washington;

(j) A review of the practices of the department of social and health services with respect to checking the backgrounds of its employees, applicants for employment, and candidates for promotion; and

~~((j))~~ (k) A review of the benefits and obstacles of implementing a criminal history record information background check program created by the national child protection act of 1993. The national child protection act of 1993 increases the availability of criminal history record information background checks for employers who have employees or volunteers who work with children, elderly persons, or persons with disabilities.

(4) The task force, where feasible, may consult with individuals from the public and private sector.

(5) The task force shall use legislative facilities and staff from senate committee services and the house office of program research.

(6) The task force shall report its findings and recommendations to the legislature by December 31, ~~((2005))~~ 2006.

NEW SECTION. Sec.2. This act expires January 31, 2007."

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

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care to Substitute House Bill No. 2431.

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 "checks;" strike the remainder of the title and insert "reenacting and amending 2005 c 452 s 1 (uncodified); and providing an expiration date."

MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 2431 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.

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2431 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2431 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 Benson, Benton, Berkey, Brandland, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Excused: Senators Brown and Hargrove - 2

SUBSTITUTE HOUSE BILL NO. 2431 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. 2409, by Representatives O'Brien, Rodne, Ericks, Lovick, Anderson, Jarrett, Nixon, McDonald, Williams, Darneille, Buck, Conway, P. Sullivan, Tom, Takko, Lantz, Kilmer, Fromhold, B. Sullivan, Morrell, Simpson, Springer, Green, Miloscia, Sells and Ormsby

Changing the provisions relating to sex and kidnapping offender registration.

The measure was read the second time.

MOTION

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

On page 5, line 34, after "within" strike "~~((thirty days))~~ seventy-two hours" and insert "~~((thirty))~~ three business days"

On page 9, line 9, after "office" strike "~~((may))~~ shall" and insert "may"

On page 9, line 10, after "locations" strike ", including addresses when applicable."

On page 9, beginning on line 11, after "days" strike "and where the person plans to stay in the forthcoming seven days"

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

The President Pro Tempore declared the question before the Senate to be the adoption of the committee amendment by the Committee on Human Services & Corrections to House Bill No. 2409.

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

MOTION

On motion of Senator Regala, the rules were suspended, House Bill No. 2409 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 2409 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2409 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 1; Excused, 2.

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

Voting nay: Senator Pridemore - 1

Absent: Senator Deccio - 1

Excused: Senators Brown and Hargrove - 2

HOUSE BILL NO. 2409 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. 2384, by House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives Dickerson, Buck, Blake and B. Sullivan)

Concerning the state geological survey.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 43.92 RCW to read as follows:

It is the intent of the legislature that there be an effective state geological survey that can produce essential information that provides for the health, safety, and economic well-being of the citizens.

Sec. 2. RCW 43.92.010 and 1988 c 127 s 28 are each amended to read as follows:

There shall be a geological survey of the state (~~((which))~~ that shall be under the direction of the commissioner of public lands who shall have general charge of the survey, and shall appoint as supervisor of the survey a geologist of established reputation, to be known as the (~~((supervisor of geology))~~ state geologist.

Sec. 3. RCW 43.92.020 and 1965 c 8 s 43.92.020 are each amended to read as follows:

The geological survey shall have for its objects:

(1) An examination of the economic products of the state, (~~((viz))~~ including: (~~((The))~~ Gold, silver, copper, lead, and iron ores, as well as building stones, clays, coal, and all mineral substances of value;

FIFTY-THIRD DAY, MARCH 2, 2006

(2) An examination and classification of ~~((the))~~ soils, and the study of their adaptability to particular crops;

(3) An investigation and report upon the water supplies, artesian wells, the water power of the state, gauging the streams, etc., with reference to their application for irrigation and other purposes;

(4) An examination and report upon the occurrence of different road building material;

(5) An examination of the physical features of the state with reference to their practical bearing upon the occupations of the people;

(6) The preparation of special geological and economic maps to illustrate the resources of the state;

(7) The preparation of special reports with necessary illustrations and maps, which shall embrace both the general and detailed description of the geology and natural resources of the state~~(:);~~ and

(8) The consideration of ~~((such other kindred))~~ similar scientific and economic questions ~~((as))~~ that, in the judgment of the ~~((director shall be))~~ state geologist, is deemed of value to the people of the state.

NEW SECTION. Sec. 4. A new section is added to chapter 43.92 RCW to read as follows:

In addition to the objectives stated in RCW 43.92.020, the geological survey must conduct and maintain an assessment of seismic, landslide, and tsunami hazards in Washington. This assessment must include the identification and mapping of volcanic, seismic, landslide, and tsunami hazards, an estimation of potential consequences, and the likelihood of occurrence. The maintenance of this assessment must include technical assistance to state and local government agencies on the proper interpretation and application of the results of this assessment.

Sec. 5. RCW 43.92.040 and 1965 c 8 s 43.92.040 are each amended to read as follows:

~~((The))~~ Regular and special reports of the geological survey, with proper illustrations and maps, shall be printed as ~~((the director may direct, and the))~~ directed by the state geologist. All reports shall be distributed or sold by ~~((him))~~ the department of natural resources as the interests of the state and of science demand~~((and))~~. All money obtained by the sale of reports under this section shall be paid into the state treasury.

Sec. 6. RCW 43.92.060 and 1965 c 8 s 43.92.060 are each amended to read as follows:

The ~~((director))~~ state geologist may make provisions for topographic, geologic, and hydrographic surveys of the state in cooperation with the United States geological survey in such manner as in ~~((his))~~ the opinion of the state geologist will be of the greatest benefit to the agricultural, industrial, and geological requirements of the state~~((: PROVIDED, That))~~. However, the director of the United States geological survey ~~((agrees))~~ must first agree to expend on the part of the United States upon such surveys a sum equal to that expended by the state.

Sec. 7. RCW 43.92.070 and 1965 c 8 s 43.92.070 are each amended to read as follows:

In order to complete the topographic map of the state and for the purpose of making more extensive stream measurements, and otherwise investigating and determining the water supply of the state, the ~~((director))~~ state geologist may enter into such agreements with the director of the United States geological survey as will ~~((insure))~~ ensure that the surveys and investigations be carried on in the most economical manner, and that the maps and data be available for the use of the public as quickly as possible.

Sec. 8. RCW 43.92.080 and 1965 c 8 s 43.92.080 are each amended to read as follows:

In order to carry out the purposes of this chapter, all persons employed ~~((hereunder))~~ by the department of natural resources to carry out the duties of this chapter are authorized to enter and cross all land within the state ~~((doing thereby))~~ as long as no damage is done to private property."

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

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Natural Resources, Ocean & Recreation to Substitute House Bill No. 2384.

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 1 of the title, after "survey;" strike the remainder of the title and insert "amending RCW 43.92.010, 43.92.020, 43.92.040, 43.92.060, 43.92.070, and 43.92.080; and adding new sections to chapter 43.92 RCW."

MOTION

On motion of Senator Jacobsen, the rules were suspended, Substitute House Bill No. 2384 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 Oke spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2384 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2384 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 Benson, Benton, Berkey, Brandland, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Excused: Senators Brown and Hargrove - 2

SUBSTITUTE HOUSE BILL NO. 2384 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. 1010, by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris, Hudgins, Morrell, Linville, B. Sullivan, McCoy and Chase)

Concerning energy efficiency and renewable energy standards.

The measure was read the second time.

FIFTY-THIRD DAY, MARCH 2, 2006
MOTION

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

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. It is the intent of the legislature to ensure an adequate supply of safe, clean, and reliable electricity at the lowest reasonable cost and risk to the utility and its ratepayers. To achieve this end, the legislature finds it essential that electric utilities in Washington develop comprehensive resource plans that explain the mix of generation and demand-side resources they plan to use to meet their customers' electricity needs in both the short term and the long term. The legislature also finds that resource planning is an important way of maintaining Washington state's commitment to a vertically integrated utility structure. The legislature further finds that many utilities in Washington have had a long and successful history of resource planning and are able to share their expertise with other utilities. The legislature also finds it essential that the utility plans be made publicly available and be aggregated and analyzed at a statewide level so the citizens of the state and their public officials have confidence that Washington's electricity supply is adequate.

NEW SECTION. Sec. 2. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

(2) "Conservation and efficiency resources" means any reduction in electric power consumption that results from increases in the efficiency of energy use, production, transmission, or distribution.

(3) "Consumer-owned utility" includes a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, a port district formed under Title 53 RCW, or a water-sewer district formed under Title 57 RCW, that is engaged in the business of distributing electricity to one or more retail electric customers in the state.

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

(5) "Electric utility" means a consumer-owned or investor-owned utility.

(6) "Full requirements customer" means an electric utility that relies on the Bonneville power administration for all power needed to supply its total load requirement other than that served by nondispatchable generating resources totaling no more than six megawatts or renewable resources.

(7) "Governing body" means the elected board of directors, city council, commissioners, or board of any consumer-owned utility.

(8) "High efficiency cogeneration" means the sequential production of electricity and useful thermal energy from a common fuel source, where, under normal operating conditions, the facility has a useful thermal energy output of no less than thirty-three percent of the total energy output.

(9) "Integrated resource plan" means an analysis describing the mix of generating resources and conservation and efficiency resources that will meet current and projected needs at the lowest reasonable cost to the utility and its ratepayers and that complies with the requirements specified in section 3(1) of this act.

2006 REGULAR SESSION

(10) "Investor-owned utility" means a corporation owned by investors that meets the definition in RCW 80.04.010 and is engaged in distributing electricity to more than one retail electric customer in the state.

(11) "Lowest reasonable cost" means the lowest cost mix of generating resources and conservation and efficiency resources determined through a detailed and consistent analysis of a wide range of commercially available resources. At a minimum, this analysis must consider resource cost, market-volatility risks, demand-side resource uncertainties, resource dispatchability, resource effect on system operation, the risks imposed on the utility and its ratepayers, public policies regarding resource preference adopted by Washington state or the federal government, and the cost of risks associated with environmental effects including emissions of carbon dioxide.

(12) "Plan" means either an "integrated resource plan" or a "resource plan."

(13) "Renewable resources" means electricity generation facilities fueled by: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; (f) biomass energy utilizing animal waste, solid organic fuels from wood, forest, or field residues or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; (g) byproducts of pulping or wood manufacturing processes, including but not limited to bark, wood chips, sawdust, and lignin in spent pulping liquors; (h) ocean thermal, wave, or tidal power; or (i) gas from sewage treatment facilities.

(14) "Resource plan" means an assessment that estimates electricity loads and resources over a defined period of time and complies with the requirements in section 3(2) of this act.

NEW SECTION. Sec. 3. Each electric utility must develop a plan consistent with this section.

(1) Utilities with more than twenty-five thousand customers that are not full requirements customers shall develop or update an integrated resource plan by September 1, 2008. At a minimum, progress reports reflecting changing conditions and the progress of the integrated resource plan must be produced every two years thereafter. An updated integrated resource plan must be developed at least every four years subsequent to the 2008 integrated resource plan. The integrated resource plan, at a minimum, must include:

(a) A range of forecasts, for at least the next ten years, of projected customer demand which takes into account econometric data and customer usage;

(b) An assessment of commercially available conservation and efficiency resources. Such assessment may include, as appropriate, high efficiency cogeneration, demand response and load management programs, and currently employed and new policies and programs needed to obtain the conservation and efficiency resources;

(c) An assessment of a commercially available, utility scale renewable and nonrenewable generating technologies;

(d) A comparative evaluation of renewable and nonrenewable generating resources, including transmission and distribution delivery costs, and conservation and efficiency resources using "lowest reasonable cost" as a criterion;

(e) The integration of the demand forecasts and resource evaluations into a long-range assessment describing the mix of supply side generating resources and conservation and efficiency resources that will meet current and projected needs at the lowest reasonable cost and risk to the utility and its ratepayers; and

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

(f) A short-term plan identifying the specific actions to be taken by the utility consistent with the long-range integrated resource plan.

(2) All other utilities may elect to develop a full integrated resource plan as set forth in subsection (1) of this section or, at a minimum, shall develop a resource plan that:

(a) Estimates loads for the next five and ten years;

(b) Enumerates the resources that will be maintained and/or acquired to serve those loads; and

(c) Explains why the resources in (b) of this subsection were chosen and, if the resources chosen are not renewable resources or conservation and efficiency resources, why such a decision was made.

(3) An electric utility that is required to develop a resource plan under this section must complete its initial plan by September 1, 2008.

(4) Resource plans developed under this section must be updated on a regular basis, at a minimum on intervals of two years.

(5) Plans shall not be a basis to bring legal action against electric utilities.

(6) Each electric utility shall publish a final integrated resource plan either as part of an annual report or as a separate document available to the public.

NEW SECTION. Sec. 4. (1) Investor-owned utilities shall submit integrated resource plans to the commission. The commission shall establish by rule the requirements for preparation and submission of integrated resource plans.

(2) The commission may adopt additional rules as necessary to clarify the requirements of section 3 of this act as they apply to investor-owned utilities.

NEW SECTION. Sec. 5. (1) The governing body of a consumer-owned utility that develops a plan under this chapter shall encourage participation of its consumers in development of the plans and progress reports and approve the plans and progress reports after it has provided public notice and hearing.

(2) Each consumer-owned utility shall transmit a copy of its plan to the department by September 1, 2008, and transmit subsequent progress reports or plans to the department at least every two years thereafter. The department shall develop, in consultation with utilities, a common cover sheet that summarizes the essential data in their plans or progress reports.

(3) Consumer-owned utilities may develop plans of a similar type jointly with other consumer-owned utilities. Data and assessments included in joint reports must be identifiable to each individual utility.

(4) To minimize duplication of effort and maximize efficient use of utility resources, in developing their plans under section 3 of this act, consumer-owned utilities are encouraged to use resource planning concepts, techniques, and information provided to and by organizations such as the United States department of energy, the Northwest planning and conservation council, Pacific Northwest utility conference committee, and other state, regional, national, and international entities, and, for the 2008 plan, as appropriate, are encouraged to use and be consistent with relevant determinations required under Title XII - Electricity; Subtitle E, Sections 1251 - 1254 of the federal energy policy act of 2005.

NEW SECTION. Sec. 6. The department shall review the plans of consumer-owned utilities and investor-owned utilities, and data available from other state, regional, and national sources, and prepare a report to the legislature aggregating the data and assessing the overall adequacy of Washington's electricity supply. The report shall include a statewide summary of utility load forecasts, load/resource balance, and utility plans

for the development of thermal generation, renewable resources, and conservation and efficiency resources. The commission shall provide the department with data summarizing the plans of investor-owned utilities for use in the department's statewide summary. The department shall submit its report within the biennial report required under RCW 43.21F.045.

NEW SECTION. Sec. 7. Sections 1 through 6 of this act constitute a new chapter in Title 19 RCW."

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

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Water, Energy & Environment to Engrossed Substitute House Bill No. 1010.

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

MOTION

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

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "electric utility planning; and adding a new chapter to Title 19 RCW."

MOTION

On motion of Senator Poulsen, the rules were suspended, Engrossed Substitute House Bill No. 1010 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 Pflug spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1010 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1010 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 Benson, Benton, Berkey, Brandland, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Excused: Senators Brown and Hargrove - 2

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1010 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. 2366, by Representatives B. Sullivan, Appleton, Moeller, Buck, Haler, Fromhold, Ericks, Strow, Simpson, Campbell and Ormsby

Making certain communications between fire fighters and peer support group counselors privileged.

The measure was read the second time.

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 2366 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senator Carrell spoke on passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 2366.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2366 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

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

Absent: Senator Parlette - 1

Excused: Senator Brown - 1

HOUSE BILL NO. 2366, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Schoesler, Senator Parlette was excused.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2987, by House Committee on Transportation (originally sponsored by Representatives Kagi, Clibborn and Dickerson)

Increasing penalties for vehicle gross weight violations.

The measure was read the second time.

MOTION

On motion of Senator Haugen, the rules were suspended, Substitute House Bill No. 2987 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and Benson spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2987.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2987 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 8; Absent, 0; Excused, 2.

Voting yea: Senators Benson, Berkey, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Johnson, Kastama, Keiser,

Kline, Kohl-Welles, McAuliffe, McCaslin, Mulliken, Oke, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schmidt, Sheldon, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 39

Voting nay: Senators Benton, Brandland, Hewitt, Honeyford, Morton, Roach, Schoesler and Stevens - 8

Excused: Senators Brown and Parlette - 2

SUBSTITUTE HOUSE BILL NO. 2987, 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.

STATEMENT FOR THE JOURNAL

I voted "No" on the final passage of Substitute House Bill No. 2987, increasing penalties for vehicle gross weight violations. Due to some confusion on my part I voted in opposition to the bill, but the roll call voted was concluded before I could change my vote. I would like the record to show that I was in favor of the measure and misvoted.

PAM ROACH, 31st Legislative District

SECOND READING

HOUSE BILL NO. 2379, by Representatives Lantz, Serben and Rodne

Disposing of nonprobate assets under will.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 2379 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 2379.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2379 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Brown and Parlette - 2

HOUSE BILL NO. 2379, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Brandland: "Madam President, I was driving down the road the other day and I was listening to my radio and I heard an ad on the radio. This ad was put out by the WEA,

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

Washington Education Association, and it basically said something to the effect that Washington ranked forty-second, forty-sixth, somewhere in the nation as it relates to the amount of money that we spend on pupils and so I started thinking a little bit and I remember I received a little book from, this one happens to be from the Association of Washington Business, Washington Research Council, Washington Roundtable and the Washington Association of Realtors. I looked in there and basically what they're saying Washington ranks sixteenth. First in capital spending, thirtieth in operating spending and I'm not saying this because I want say anything negative about either one of these bodies because I believe that they think in their own mind that they're putting out the right information. I think that the point that I'm trying to make here is that I think a lot of people that are watching this on TV and hear about the things that we do down here perhaps think that we make decisions in a vacuum. I can tell you that many times in my brief career here, we've had to make decisions based on conflicting information and, I think this is a classic example of that. Not saying that either ones right, either ones wrong. It is difficult to get all the information in sometimes in a relatively in a short period of time and make a good decision. I just wanted to pass that point along. Thank you."

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1510, by House Committee on Finance (originally sponsored by Representatives Morris, Quall, B. Sullivan and Chase)

Modifying the property taxation of nonprofit entities.

The measure was read the second time.

MOTION

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

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

On page 2, line 8, after "(B)" insert "No comparable private for-profit facility exists within ten miles of the property that could be used for the same purpose for which the property is loaned or rented; and
____(C)"

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

The President Pro Tempore declared the question before the Senate to be the adoption of the committee amendment by the Committee on Ways & Means to Substitute House Bill No. 1510.

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

MOTION

On motion of Senator Spanel, the rules were suspended, Substitute House Bill No. 1510 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 Spanel spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 1510 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1510 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 Benson, Benton, Berkey, Brandland, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Excused: Senators Brown and Parlette - 2

SUBSTITUTE HOUSE BILL NO. 1510 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. 2567, by Representatives Wallace, Ericks, Morrell, Kilmer, Lovick, Campbell, Green, Lantz, Springer and Moeller

Providing provisions for methamphetamine precursors.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 9.91 RCW to read as follows:

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

(a) "Iodine matrix" means iodine at a concentration greater than two percent by weight in a matrix or solution.

(b) "Matrix" means something, as a substance, in which something else originates, develops, or is contained.

(c) "Methylsulfonylmethane" means methylsulfonylmethane in its powder form only, and does not include products containing methylsulfonylmethane in other forms such as liquids, tablets, capsules not containing methylsulfonylmethane in pure powder form, ointments, creams, cosmetics, foods, and beverages.

(2) Any person who knowingly purchases in a thirty-day period or possesses any quantity of iodine in its elemental form, an iodine matrix, or more than two pounds of methylsulfonylmethane is guilty of a gross misdemeanor, except as provided in subsection (3) of this section.

(3) Subsection (2) of this section does not apply to:

(a) A person who possesses iodine in its elemental form or an iodine matrix as a prescription drug, under a prescription issued by a licensed veterinarian, physician, or advanced registered nurse practitioner;

(b) A person who possesses iodine in its elemental form, an iodine matrix, or any quantity of methylsulfonylmethane in its powder form and is actively engaged in the practice of animal husbandry of livestock;

(c) A person who possesses iodine in its elemental form or an iodine matrix in conjunction with experiments conducted in a chemistry or chemistry-related laboratory maintained by a:

(i) Public or private secondary school;

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

(ii) Public or private institution of higher education that is accredited by a regional or national accrediting agency recognized by the United States department of education;

(iii) Manufacturing facility, government agency, or research facility in the course of lawful business activities;

(d) A veterinarian, physician, advanced registered nurse practitioner, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman, or common carrier, or an agent of any of these persons who possesses iodine in its elemental form, an iodine matrix, or methylsulfonylmethane in its powder form in the regular course of lawful business activities; or

(e) A person working in a general hospital who possesses iodine in its elemental form or an iodine matrix in the regular course of employment at the hospital.

(4) Any person who purchases any quantity of iodine in its elemental form, an iodine matrix, or any quantity of methylsulfonylmethane must present an identification card or driver's license issued by any state in the United States or jurisdiction of another country before purchasing the item.

(5) The Washington state patrol shall develop a form to be used in recording transactions involving iodine in its elemental form, an iodine matrix, or methylsulfonylmethane. A person who sells or otherwise transfers any quantity of iodine in its elemental form, an iodine matrix, or any quantity of methylsulfonylmethane to a person for any purpose authorized in subsection (3) of this section must record each sale or transfer. The record must be made on the form developed by the Washington state patrol and must be retained by the person for at least three years. The Washington state patrol or any local law enforcement agency may request access to the records:

(a) Failure to make or retain a record required under this subsection is a misdemeanor.

(b) Failure to comply with a request for access to records required under this subsection to the Washington state patrol or a local law enforcement agency is a misdemeanor."

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

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary to House Bill No. 2567.

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 "precursors;" strike the remainder of the title and insert "adding a new section to chapter 9.91 RCW; and prescribing penalties."

MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 2567 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 Johnson spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 2567 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House

Bill No. 2567 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

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

Absent: Senator Regala - 1

Excused: Senators Brown and Parlette - 2

HOUSE BILL NO. 2567 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. 3120, by House Committee on Judiciary (originally sponsored by Representatives Lantz, Priest, Kirby and Williams)

Concerning notice requirements for tort claims against state and local governments and their officers, employees, or volunteers.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 3120 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 Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 3120.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3120 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

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

Absent: Senator Regala - 1

Excused: Senators Brown and Parlette - 2

SUBSTITUTE HOUSE BILL NO. 3120, 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. 2596, by House Committee on Commerce & Labor (originally sponsored by Representatives Kenney, McDonald, Conway, Wood, Hasegawa, Hudgins, Rodne, McCoy, Morrell and Ormsby)

Modifying provisions for the cosmetology apprenticeship program.

The measure was read the second time

MOTION

Senator Kohl-Welles moved that the following committee striking amendment by the Committee on Labor, Commerce, Research & Development be adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that direct-entry apprenticeship programs can be very beneficial to both students and employers. However, there is also concern that apprenticeship programs may reduce the number of students who enroll in traditional cosmetology school. The advisory committee is to update the legislature on the program with an updated final report by December 31, 2008, and is to include an evaluation of the effectiveness of the apprenticeship program, including but not limited to the number of apprentices who complete the program, the number of apprentices who take and pass the licensing examination, and a formal review of any impact the expansion of such an apprenticeship program may have on the enrollment of traditional cosmetology schools, including but not limited to whether the enrollment of traditional cosmetology schools is negatively impacted by the direct-entry apprenticeship programs.

Sec. 2. RCW 18.16.280 and 2003 c 400 s 1 are each amended to read as follows:

A cosmetology apprenticeship pilot program is hereby created.

(1) An advisory committee is created that may consist of representatives from individuals and businesses licensed under chapter 18.16 RCW; cosmetology, barbering, esthetics, and manicuring advisory board members; department of labor and industries; department of licensing; United States department of labor apprenticeship; and other interested parties.

(a) The advisory committee shall meet to review progress of the cosmetology apprenticeship pilot program.

(b) The department of labor and industries apprenticeship council shall coordinate the activities of the advisory committee. The advisory committee shall issue annual reports on the progress of the apprenticeship program to interested parties and shall issue a final report regarding the outcome of the apprenticeship program to be presented to the appropriate committees of the house of representatives and senate by December 31, 2005. The advisory committee shall submit an updated report, including an evaluation of the effectiveness of the apprenticeship program, to the appropriate committees of the house of representatives and senate by December 31, 2008.

(2) Up to twenty salons approved by the department of labor and industries apprenticeship council may participate in the apprenticeship program. The participating salons shall proportionately represent the geographic diversity of Washington state, including rural and urban areas, and salons located in both eastern and western Washington.

(3) The department of licensing shall adopt rules, including a mandatory requirement that apprentices complete in-classroom theory courses as a part of their training, to provide for the licensure of participants of the apprenticeship program.

(4) The cosmetology apprenticeship pilot program expires July 1, (~~2006~~) 2008."

MOTION

Senator Kohl-Welles moved that the following amendment by Senators Kohl-Welles and Parlette to the committee striking amendment be adopted.

On page 2, line 8, after "December 31," strike "2008" and insert "2007".

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

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators Kohl-Welles and Parlette on page 2, line 8 to the committee striking amendment to Substitute House Bill No. 2596.

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

Senator Kohl-Welles spoke in favor of the committee striking amendment as amended.

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Labor, Commerce, Research & Development as amended to Substitute House Bill No. 2596.

The motion by Senator Kohl-Welles 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 "program;" strike the remainder of the title and insert "amending RCW 18.16.280; and creating a new section."

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 2596 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 Benton spoke in favor of passage of the bill.

MOTION

On motion of Senator Mulliken, Senator Carrell was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2596 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2596 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Brown - 1

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

SUBSTITUTE HOUSE BILL NO. 2596 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. 3056, by Representatives Takko, Woods, Clibborn, B. Sullivan and Springer

Allowing second class cities and towns to pay claims by check or warrant.

The measure was read the second time.

MOTION

On motion of Senator Berkey, the rules were suspended, House Bill No. 3056 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.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 3056.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3056 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

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

Absent: Senator Roach - 1

Excused: Senator Brown - 1

HOUSE BILL NO. 3056, 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 Pflug moved adoption of the following resolution:

SENATE RESOLUTION

8721

By Senators Pflug, Johnson, Oke and Kline

WHEREAS, The students of Tahoma Senior High School in Maple Valley, Washington, enrolled in the program known as "We The People, The Citizen and Constitution," have exhibited that they have learned very well the lessons of our forefathers who wrote the Constitution of the United States. The students will be representing all of Washington State in national championship competitions; and

WHEREAS, This knowledge will enhance the lives of the students and direct their paths as they walk through life, proud

in the knowledge that Americans have long stood for justice and liberty for all Americans; and

WHEREAS, Being armed with this knowledge is to the benefit of all citizens of this great country and state and will prepare the students to participate in the democracy men and women have fought so gallantly to preserve; and

WHEREAS, These energetic, knowledgeable young people will one day lead this state and country, and there may very well be in their midst a legislator, governor, senator, member of Congress, or perhaps a future President; and

WHEREAS, Their dedicated and talented teacher, Lindsey Hatch of Tahoma Senior High School, can take pride in knowing that the students enrolled in this program have the knowledge to outperform university students in every topic; and

WHEREAS, Studies have shown that eighty percent of seniors in high school participating in this program have registered to vote compared to an average of thirty-seven percent among other high school seniors, thereby proving that this program has increased the interest in politics and in participation in government; and

WHEREAS, For the twelfth consecutive year, Tahoma Senior High School has won the first place title at the state championship by answering questions using only their knowledge, memory, and reasoning, enabling its members to represent the whole State of Washington when they compete at the national competition in Washington, D.C. in April; and

WHEREAS, In 2000, Tahoma Senior High School was fourth in the nation, in 2002 they won the Western Regional Award, and in 2003 the We The People Team won the top Unit Two in the Nation Award;

NOW, THEREFORE, BE IT RESOLVED, That the Senate honor the participants in this program from Tahoma High School's first place team: Corey Allen, Griffin Bell, Kelsey Childress, Nikki Clardy, Adam Day, Josh Hansen, Jamie Huson, Sean Johnson, Danielle Judd, Jordan Kerr, Sara Kleinknecht, Jami Lukins, Jordan Michelson, Alexa Moss, Kaylene Nead, Leah Pappajohn, Keith Peck, Maria Tamaccio, Rachel Tipper, Andy Thompson, Lyle Valenzuela, Emily Wilson, and Nichole Woods; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the members of the We The People Team, their teacher Lindsey Hatch, and the principal of Tahoma Senior High School Terry Duty, to further show the respect of this body for a job well done and wish them success in their endeavors.

Senators Pflug and Johnson spoke in favor of adoption of the resolution.

The President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8721.

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

MOTION

On motion of Senator Jacobsen, Senator Doumit was excused.

MOTION

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

MOTION

On motion of Senator Mulliken, Senator Oke was excused.

SECOND READING

HOUSE BILL NO. 1305, by Representatives Haigh, McDonald, Eickmeyer, Holmquist, Wallace, P. Sullivan, Roach, Morrell and Sells

Authorizing background checks before an authorized emergency vehicle permit is issued.

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

The measure was read the second time.

MOTION

On motion of Senator Haugen, the rules were suspended, House Bill No. 1305 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Haugen spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 1305.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1305 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

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

Absent: Senator McAuliffe - 1

Excused: Senators Brown and Oke - 2

HOUSE BILL NO. 1305, 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. 2056, by House Committee on Commerce & Labor (originally sponsored by Representatives Conway and Wood)

Regulating recreational vehicle shows.

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Substitute House Bill No. 2056 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Honeyford spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2056.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2056 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 3; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Hewitt, Honeyford,

Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 45

Absent: Senators Hargrove, McAuliffe and Thibaudeau - 3

Excused: Senator Brown - 1

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2056, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Benton: "Thank you Madam President. I wanted to thank the Majority Leader for the candy she left on my desk this morning. I followed the instructions, it says, 'Please remove the tablet from the packet before use.' So I did. I took it out of the container and bit off a piece. I thought, I originally thought it was white chocolate and then I realized it was hard, so then occurred to me that it was a mint of some sort and so even though I removed the cover as instructed the taste was not what I expected when I took a bite of this lovely present that was left on my desk and so I just wanted to warn my colleagues before they bite into their present to be careful. Don't expect a minty taste because it's not like that at all. It's very, very different. It's kind a like you're going to take a drink of something, you think it's one thing, but it's something else. It's a very surprising thing that occurs to you when you expecting something and you get something totally different. I may have even chipped one of my teeth, I think, as I bit into this lovely present. So I wanted to thank her but at the same time I wanted to warn my colleagues to be very careful when they're taking advantage of this lovely present that the Majority Leader left for us this morning."

PERSONAL PRIVILEGE

Senator McCaslin: "Now I know why we're in the minority!"

PERSONAL PRIVILEGE

Senator Brown: "I am so sorry, Senator. Perhaps I should of put more explicit instructions. What you have here is not actually edible. Please send me the doctor bill but not the attorneys fees please. If I could avoid that, that would be great. What you have here is in light of the bill that we passed last night, related to phasing out the phosphorous in our dish washing detergent. This is a sample of the product. So this goes in your dishwasher and for those of you who passed that on to your spouse, you just pass it on to her and she'll use it in the dishwasher. I just want to let you know that it does get your dishes and glasses spotless and clean. Thank you for helping me out with the bill and hope that you also find the product satisfactory."

POINT OF INQUIRY

Senator Honeyford: "Will Senator Benton yield to a question? Senator, the question is are your teeth whiter and cleaner?"

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

Senator Benton: “Well, the answer is yes I have noticed a remarkable change in the quality of the shininess of the teeth. I’ll be careful not to smile. We wouldn’t want to give anybody a sunburn.”

PERSONAL PRIVILEGE

Senator Hargrove: “I thought this was a piece of candy I ate it. What is that going to do for me?”

PERSONAL PRIVILEGE

Senator Roach: “Madam President, members of the Senate. This brings up maybe a new discovery for us because if we were to eat these. Now, I don’t know if there is phosphorous in people effluent but if there is, this might be something that we could all take. All of humanity and certainly do good for the ecology. What do you think of that? You’ve come on something.”

PERSONAL PRIVILEGE

Senator Delvin: “Thank you Madam President. When did we go to the ninth order?”

PERSONAL PRIVILEGE

Senator Oke: “Thank you Madam President. I’ve got the arm band to prove it, but I wanted you to all know. It’s hard for me to tell everybody. Yesterday I went into the VA hospital in Seattle. My red blood count was down to twenty-three. Not a good point and I got there with Judy about one. They started the first IV into me and they gave me three. At five-thirty, I started this and at two-thirty a. m. they finished with me and my lovely wife was there with me. Having people going in and going out. The good news is this morning when they took the blood sample and looked at it I’m thirty-one so. Anything over thirty is 'Praise the Lord.' Thank you for your prayers.”

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 1:42 p.m. by President Pro Tempore.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2805, by House Committee on Appropriations (originally sponsored by Representatives O'Brien, Ericks, Morrell, Miloscia and Green)

Expanding provisions relating to missing persons.

The measure was read the second time.

MOTION

On motion of Senator Brandland, the rules were suspended, Second Substitute House Bill No. 2805 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Brandland spoke in favor of passage of the bill.

MOTION

On motion of Senator Weinstein, Senator McAuliffe was excused.

MOTION

On motion of Senator Schoesler, Senators Swecker, Finkbeiner, Zarelli, Stevens, Hewitt and Kline were excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2805.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2805 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

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

Absent: Senator Deccio - 1

Excused: Senators Brown, Finkbeiner, Kline and Zarelli - 4

SECOND SUBSTITUTE HOUSE BILL NO. 2805, 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, Senator Doumit was excused.

SECOND READING

HOUSE BILL NO. 1471, by Representatives Lovick, McDonald and Takko

Changing provisions relating to authentication of documents.

The measure was read the second time.

MOTION

On motion of Senator Brandland, the rules were suspended, House Bill No. 1471 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Delvin spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 1471.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1471 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brown, Finkbeiner and Kline - 3

HOUSE BILL NO. 1471, 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. 3178, by House Committee on Commerce & Labor (originally sponsored by Representatives Murray and Woods)

Concerning collective bargaining by state ferry employees.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 47.64.011 and 1983 c 15 s 2 are each amended to read as follows:

As used in this chapter, unless the context otherwise requires, the definitions in this section shall apply.

(1) (~~"Arbitration" means the procedure whereby the parties involved in an impasse submit their differences to a third party for a final and binding decision or as provided in this chapter.~~

~~—(2) "Arbitrator" means either a single arbitrator or a panel of three arbitrators as provided in RCW 47.64.240.~~

~~—(3)) "Collective bargaining representative" means the persons designated by the ((secretary of transportation)) governor and employee organizations to be the exclusive representatives during collective bargaining negotiations.~~

~~((4)) (2) "Commission" means the marine employees' commission created in RCW 47.64.280.~~

~~(3) "Department of transportation" means the department as defined in RCW 47.01.021.~~

~~(4) "Employer" means the state of Washington.~~

(5) "Ferry employee" means any employee of the marine transportation division of the department of transportation who is a member of a collective bargaining unit represented by a ferry employee organization and does not include an exempt employee pursuant to RCW 41.06.079.

(6) "Ferry employee organization" means any labor organization recognized to represent a collective bargaining unit of ferry employees.

~~(7) ("Ferry system management" means those management personnel of the marine transportation division of the~~

~~department of transportation who have been vested with the day-to-day management responsibilities of the Washington state ferry system by the transportation commission and who are not members of a collective bargaining unit represented by a ferry employee organization.~~

~~—(8)) "Lockout" means the refusal of ((ferry system management)) the employer to furnish work to ferry employees in an effort to get ferry employee organizations to make concessions during collective bargaining, grievance, or other labor relation negotiations. Curtailment of employment of ferry employees due to lack of work resulting from a strike or work stoppage(~~(, as defined in subsection (11) of this section,)) shall not be considered a lockout.~~~~

~~((9) "Marine employees' commission" means the commission created in RCW 47.64.280.~~

~~—(10)) (8) "Office of financial management" means the office as created in RCW 43.41.050.~~

~~((11)) (9) "Strike or work stoppage" means a ferry employee's refusal, in concerted action with others, to report to duty, or his or her willful absence from his or her position, or his or her stoppage or slowdown of work, or his or her abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in conditions, compensation, rights, privileges, or obligations of his, her, or any other ferry employee's employment. A refusal, in good faith, to work under conditions which pose an endangerment to the health and safety of ferry employees or the public, as determined by the master of the vessel, shall not be considered a strike for the purposes of this chapter.~~

~~((12) "Transportation commission" means the commission as defined in RCW 47.01.021.)~~

NEW SECTION. Sec. 2. A new section is added to chapter 47.64 RCW to read as follows:

(1) For the purpose of negotiating collective bargaining agreements under this chapter, the employer shall be represented by the governor or governor's designee.

(2) Two or more ferry employee organizations may, upon agreement of the parties, negotiate, as a coalition with the employer representative as designated in subsection (1) of this section, a multiunion collective bargaining agreement on behalf of all the employees in ferry employee organization bargaining units that the exclusive bargaining representatives represent. The coalition shall bargain for a multiunion collective bargaining agreement covering all of the employees represented by the coalition. The governor's designee and the exclusive bargaining representative or representatives are authorized to enter into supplemental bargaining of bargaining unit-specific issues for inclusion in or as an addendum to the multiunion collective bargaining agreement, subject to the parties' agreement regarding the issues and procedures for supplemental bargaining. Nothing in this section impairs the right of each ferry employee organization to negotiate a collective bargaining agreement exclusive to the bargaining unit it represents.

Sec. 3. RCW 47.64.120 and 1997 c 436 s 1 are each amended to read as follows:

(1) (~~Ferry system management~~) The employer and ferry system employee organizations, through their collective bargaining representatives, shall meet at reasonable times, to negotiate in good faith with respect to wages, hours, working conditions, insurance, and health care benefits as limited by RCW 47.64.270, and other matters mutually agreed upon.

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

Employer funded retirement benefits shall be provided under the public employees retirement system under chapter 41.40 RCW and shall not be included in the scope of collective bargaining.

(2) Upon ratification of bargaining agreements, ferry employees are entitled to an amount equivalent to the interest earned on retroactive compensation increases. For purposes of this section, the interest earned on retroactive compensation increases is the same monthly rate of interest that was earned on the amount of the compensation increases while held in the state treasury. The interest will be computed for each employee until the date the retroactive compensation is paid, and must be allocated in accordance with appropriation authority. The interest earned on retroactive compensation is not considered part of the ongoing compensation obligation of the state and is not compensation earnable for the purposes of chapter 41.40 RCW. Negotiations shall also include grievance procedures for resolving any questions arising under the agreement, which shall be embodied in a written agreement and signed by the parties.

(3) Except as otherwise provided in this chapter, if a conflict exists between an executive order, administrative rule, or agency policy relating to wages, hours, and terms and conditions of employment and a collective bargaining agreement negotiated under this chapter, the collective bargaining agreement shall prevail. A provision of a collective bargaining agreement that conflicts with the terms of a statute is invalid and unenforceable.

Sec. 4. RCW 47.64.130 and 1983 c 15 s 4 are each amended to read as follows:

(1) It is an unfair labor practice for ~~((ferry system management))~~ the employer or its representatives:

(a) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed by this chapter;

(b) To dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it ~~((PROVIDED, That))~~, However, subject to rules made by the commission pursuant to RCW 47.64.280, an employer shall not be prohibited from permitting employees to confer with it or its representatives or agents during working hours without loss of time or pay;

(c) To encourage or discourage membership in any employee organization by discrimination in regard to hiring, tenure of employment, or any term or condition of employment, but nothing contained in this subsection prevents an employer from requiring, as a condition of continued employment, payment of periodic dues and fees uniformly required to an exclusive bargaining representative pursuant to RCW 47.64.160 ~~((PROVIDED, That))~~. However, nothing prohibits ~~((ferry system management))~~ the employer from agreeing to obtain employees by referral from a lawful hiring hall operated by or participated in by a labor organization;

(d) To discharge or otherwise discriminate against an employee because he has filed charges or given testimony under this chapter;

(e) To refuse to bargain collectively with the representatives of its employees.

(2) It is an unfair labor practice for an employee organization:

(a) To restrain or coerce (i) employees in the exercise of the rights guaranteed by this chapter ~~((PROVIDED, That this paragraph))~~. However, this subsection does not impair the right

of an employee organization to prescribe its own rules with respect to the acquisition or retention of membership therein, or (ii) an employer in the selection of his representatives for the purposes of collective bargaining or the adjustment of grievances;

(b) To cause or attempt to cause an employer to discriminate against an employee in violation of subsection (1)(c) of this section;

(c) To refuse to bargain collectively with an employer ~~((when it is the representative of its employees subject to RCW 47.64.170))~~.

(3) The expression of any view, argument, or opinion, or the dissemination thereof to the public, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this chapter, if the expression contains no threat of reprisal or force or promise of benefit.

Sec. 5. RCW 47.64.140 and 1989 c 373 s 25 are each amended to read as follows:

(1) It is unlawful for any ferry system employee or any employee organization, directly or indirectly, to induce, instigate, encourage, authorize, ratify, or participate in a strike or work stoppage against the ferry system.

(2) It is unlawful for ~~((ferry system management))~~ the employer to authorize, consent to, or condone a strike or work stoppage; or to conduct a lockout; or to pay or agree to pay any ferry system employee for any day in which the employee participates in a strike or work stoppage; or to pay or agree to pay any increase in compensation or benefits to any ferry system employee in response to or as a result of any strike or work stoppage or any act that violates subsection (1) of this section. It is unlawful for any official, director, or representative of the ferry system to authorize, ratify, or participate in any violation of this subsection. Nothing in this subsection prevents new or renewed bargaining and agreement within the scope of negotiations as defined by this chapter, at any time. No collective bargaining agreement provision regarding suspension or modification of any court-ordered penalty provided in this section is binding on the courts.

(3) In the event of any violation or imminently threatened violation of subsection (1) or (2) of this section, any citizen domiciled within the jurisdictional boundaries of the state may petition the superior court for Thurston county for an injunction restraining the violation or imminently threatened violation. Rules of civil procedure regarding injunctions apply to the action. However, the court shall grant a temporary injunction if it appears to the court that a violation has occurred or is imminently threatened; the plaintiff need not show that the violation or threatened violation would greatly or irreparably injure him or her; and no bond may be required of the plaintiff unless the court determines that a bond is necessary in the public interest. Failure to comply with any temporary or permanent injunction granted under this section is a contempt of court as provided in chapter 7.21 RCW. The court may impose a penalty of up to ten thousand dollars for an employee organization or the ferry system, for each day during which the failure to comply continues. The sanctions for a ferry employee found to be in contempt shall be as provided in chapter 7.21 RCW. An individual or an employee organization which makes an active good faith effort to comply fully with the injunction shall not be deemed to be in contempt.

(4) The right of ferry system employees to engage in strike or work slowdown or stoppage is not granted and nothing in this chapter may be construed to grant such a right.

(5) Each of the remedies and penalties provided by this section is separate and several, and is in addition to any other legal or equitable remedy or penalty.

(6) In addition to the remedies and penalties provided by this section the successful litigant is entitled to recover reasonable attorney fees and costs incurred in the litigation.

(7) Notwithstanding the provisions of chapter 88.04 RCW and chapter 88.08 RCW, the department of transportation shall ~~((promulgate))~~ adopt rules ~~((and regulations))~~ allowing vessels, as defined in RCW ~~((88.04.300))~~ 88.04.015, as well as other watercraft, to engage in emergency passenger service on the waters of Puget Sound in the event ferry employees engage in a work slowdown or stoppage. Such emergency rules ~~((and regulations))~~ shall allow emergency passenger service on the waters of Puget Sound within seventy-two hours following a work slowdown or stoppage. Such rules ~~((and regulations))~~ that are ~~((promulgated))~~ adopted shall give due consideration to the needs and the health, safety, and welfare of the people of the state of Washington.

Sec. 6. RCW 47.64.170 and 1983 c 15 s 8 are each amended to read as follows:

(1) Any ferry employee organization certified as the bargaining representative shall be the exclusive representative of all ferry employees in the bargaining unit and shall represent all such employees fairly.

(2) A ferry employee organization or organizations and the ~~((secretary of transportation))~~ governor may each designate any individual as its representative to engage in collective bargaining negotiations.

(3) Negotiating sessions, including strategy meetings of ~~((ferry system management))~~ the employer or employee organizations, mediation, and the deliberative process of arbitrators are exempt from the provisions of chapter 42.30 RCW. Hearings conducted by arbitrators may be open to the public by mutual consent of the parties. ~~((Any meeting of the transportation commission, during which a collective bargaining agreement is subject to ratification, shall be open to the public.))~~

(4) Terms of any collective bargaining agreement may be enforced by civil action in Thurston county superior court upon the initiative of either party.

(5) Ferry system employees or any employee organization shall not negotiate or attempt to negotiate directly with ~~((a member of the transportation commission if the commission has))~~ anyone other than the person who has been appointed or authorized a bargaining representative for the purpose of bargaining with the ferry employees or their representative ~~((unless the member of the commission is the designated bargaining representative of the ferry system)).~~

(6) ~~(a)~~ The negotiation of a proposed collective bargaining agreement by representatives of ~~((ferry system management))~~ the employer and a ferry employee organization shall commence ~~((in each odd-numbered year immediately following adoption by the legislature and approval by the governor of the biennial budget))~~ on or about September 1st of every odd-numbered year. However, negotiations for the 2007-2009 biennial agreements may commence at any time after the effective date of this section. Negotiations for agreements pertaining to the 2009-2011 biennium and all subsequent negotiations must conclude on or about April 1st of the year

following the year in which the negotiations commence. If negotiations are not concluded by April 1st, the parties shall be deemed to be at impasse and shall proceed to mediation under RCW 47.64.230 and sections 12 through 14 of this act.

(b) For negotiations covering the 2009-2011 biennium and subsequent biennia, the time periods specified in this section, and in RCW 47.64.210 and sections 12 through 14 of this act, must ensure conclusion of all agreements on or before September 1st of the even-numbered year next preceding the biennial budget period during which the agreement should take effect. These time periods may only be altered by mutual agreement of the parties in writing. Any such agreement and any impasse procedures agreed to by the parties under RCW 47.64.200 must include an agreement regarding the new time periods that will allow final resolution by negotiations or arbitration by September 1st of each even-numbered year. Negotiations for the 2007-2009 biennium must be concluded on or before October 1, 2006.

(7) Until a new collective bargaining agreement is ~~((negotiated, or until an award is made by the arbitrator))~~ in effect, the terms and conditions of the previous collective bargaining agreement shall remain in force. ~~((The wage and benefit provisions of any collective bargaining agreement, or arbitrator's award in lieu thereof, that is concluded after July 1st of an odd-numbered year shall be retroactive to July 1st.))~~ It is the intent of this section that the collective bargaining agreement or arbitrator's award shall commence on July 1st of each odd-numbered year and shall terminate on June 30th of the next odd-numbered year to coincide with the ensuing biennial budget year, as defined by RCW 43.88.020(7), to the extent practical. It is further the intent of this section that all collective bargaining agreements be concluded by September 1st of the even-numbered year before the commencement of the biennial budget year during which the agreements are to be in effect.

(8) ~~((Any ferry union contract terminating before July 1, 1983, shall, with the agreement of the parties, remain in effect until a contract can be concluded under RCW 47.64.006, 47.64.011, and 47.64.120 through 47.64.280. The contract may be retroactive to the expiration date of the prior contract, and the cost to the department of three months retroactive compensation and benefits for this 1983 contract negotiation only shall not be included in calculating the limitation imposed by RCW 47.64.180. If the parties cannot agree to contract extension, any increase agreed to for the three-month period shall be included in calculating the limit imposed by RCW 47.64.180.~~

(9) Any ferry union contract which would terminate after July 1, 1983, may, by agreement of the parties, be terminated as of July 1, 1983, and a new contract concluded pursuant to RCW 47.64.006, 47.64.011, and 47.64.120 through 47.64.280. Any contract terminating after July 1, 1983, is subject to this chapter only upon its expiration and shall not be renewed for a period beyond July 1, 1985.) (a) The governor shall submit a request either for funds necessary to implement the collective bargaining agreements including, but not limited to, the compensation and fringe benefit provisions or for legislation necessary to implement the agreement, or both. Requests for funds necessary to implement the collective bargaining agreements shall not be submitted to the legislature by the governor unless such requests:

(i) Have been submitted to the director of the office of financial management by October 1st before the legislative session at which the requests are to be considered; and

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

(ii) Have been certified by the director of the office of financial management as being feasible financially for the state.

(b) The governor shall submit a request either for funds necessary to implement the arbitration awards or for legislation necessary to implement the arbitration awards, or both. Requests for funds necessary to implement the arbitration awards shall not be submitted to the legislature by the governor unless such requests have been submitted to the director of the office of financial management by October 1st before the legislative session at which the requests are to be considered.

(c) The legislature shall approve or reject the submission of the request for funds necessary to implement the collective bargaining agreements or arbitration awards as a whole for each agreement or award. The legislature shall not consider a request for funds to implement a collective bargaining agreement or arbitration award unless the request is transmitted to the legislature as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060. If the legislature rejects or fails to act on the submission, either party may reopen all or part of the agreement and award or the exclusive bargaining representative may seek to implement the procedures provided for in RCW 47.64.210 and section 12 of this act.

(9) If, after the compensation and fringe benefit provisions of an agreement are approved by the legislature, a significant revenue shortfall occurs resulting in reduced appropriations, as declared by proclamation of the governor or by resolution of the legislature, both parties shall immediately enter into collective bargaining for a mutually agreed upon modification of the agreement.

Sec. 7. RCW 47.64.200 and 1983 c 15 s 11 are each amended to read as follows:

As the first step in the performance of their duty to bargain, ~~((ferry system management))~~ the employer and the employee organization shall endeavor to agree upon impasse procedures. ((The agreement shall provide for implementation of these impasse procedures not later than July 1st in each odd-numbered year following enactment of the biennial budget.)) Unless otherwise agreed to by the employee organization and the employer in their impasse procedures, the arbitrator or panel is limited to selecting the most reasonable offer, in its judgment, of the final offers on each impasse item submitted by the parties. The employee organization and the employer may mutually agree to the impasse procedure under which the arbitrator or panel may issue a decision it deems just and appropriate with respect to each impasse item. If the parties fail to agree upon impasse procedures under this section, the impasse procedures provided in RCW 47.64.210 ~~((through))~~ and 47.64.230 and sections 12 through 14 of this act apply. It is unlawful for either party to refuse to participate in the impasse procedures provided in RCW 47.64.210 ~~((through))~~ and 47.64.230 and sections 12 through 14 of this act.

Sec. 8. RCW 47.64.210 and 1983 c 15 s 12 are each amended to read as follows:

In the absence of an impasse agreement between the parties or the failure of either party to utilize its procedures by ~~((August))~~ April 1st in ((each odd-numbered year, the marine employees' commission shall, upon the request of either party,)) the even-numbered year preceding the biennium, either party may request the commission to appoint an impartial and disinterested person to act as mediator ((pursuant to RCW 47.64.280)). It is the function of the mediator to bring the

parties together to effectuate a settlement of the dispute, but the mediator shall not compel the parties to agree.

Sec. 9. RCW 47.64.220 and 1999 c 256 s 1 are each amended to read as follows:

(1) Prior to collective bargaining and for purposes of collective bargaining and arbitration, the ((marine employees')) commission shall conduct a salary survey. The results of the survey shall be published in a report which shall be a public document comparing wages, hours, employee benefits, and conditions of employment of involved ferry employees with those of public and private sector employees in states along the west coast of the United States, including Alaska, and in British Columbia doing directly comparable but not necessarily identical work, giving consideration to factors peculiar to the area and the classifications involved. Such survey report shall be for the purpose of disclosing generally prevailing levels of compensation, benefits, and conditions of employment. It shall be used to guide generally but not to define or limit collective bargaining between the parties. ~~((The commission shall make such other findings of fact as the parties may request during bargaining or impasse.))~~

(2) ~~((Except as provided in subsection (3) of this section,))~~ Salary and employee benefit information collected from private employers that identifies a specific employer with the salary and employee benefit rates which that employer pays to its employees is not subject to public disclosure under chapter 42.17 RCW.

~~((3) A person or entity, having reason to believe that the salary survey results are inaccurate, may submit a petition to the state auditor requesting an audit of the data upon which the salary survey results are based. The state auditor shall review and analyze all data collected for the salary survey, including proprietary information, but is prohibited from disclosing the salary survey data to any other person or entity, except by court order.))~~

Sec. 10. RCW 47.64.220 and 2005 c 274 s 308 are each amended to read as follows:

(1) Prior to collective bargaining and for purposes of collective bargaining and arbitration, the ((marine employees')) commission shall conduct a salary survey. The results of the survey shall be published in a report which shall be a public document comparing wages, hours, employee benefits, and conditions of employment of involved ferry employees with those of public and private sector employees in states along the west coast of the United States, including Alaska, and in British Columbia doing directly comparable but not necessarily identical work, giving consideration to factors peculiar to the area and the classifications involved. Such survey report shall be for the purpose of disclosing generally prevailing levels of compensation, benefits, and conditions of employment. It shall be used to guide generally but not to define or limit collective bargaining between the parties. ~~((The commission shall make such other findings of fact as the parties may request during bargaining or impasse.))~~

(2) ~~((Except as provided in subsection (3) of this section,))~~ Salary and employee benefit information collected from private employers that identifies a specific employer with the salary and employee benefit rates which that employer pays to its employees is not subject to public disclosure under chapter 42.56 RCW.

~~((3) A person or entity, having reason to believe that the salary survey results are inaccurate, may submit a petition to the~~

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

state auditor requesting an audit of the data upon which the salary survey results are based. The state auditor shall review and analyze all data collected for the salary survey, including proprietary information, but is prohibited from disclosing the salary survey data to any other person or entity, except by court order.)

Sec. 11. RCW 47.64.230 and 1983 c 15 s 14 are each amended to read as follows:

By mutual agreement, the parties may waive mediation ((and fact-finding, as provided for in RCW 47.64.210 and 47.64.220;)) and proceed with binding arbitration as provided for in ((RCW 47.64.240)) the impasse procedures agreed to under RCW 47.64.200 or in sections 12 through 14 of this act, as applicable. The waiver shall be in writing and be signed by the representatives of the parties.

NEW SECTION. Sec. 12. A new section is added to chapter 47.64 RCW to read as follows:

(1) If an agreement has not been reached following a reasonable period of negotiations and, when applicable, mediation, but in either event by April 15th, upon the recommendation of the assigned mediator that the parties remain at impasse, all impasse items shall be submitted to arbitration under this section. The issues for arbitration shall be limited to the issues certified by the commission.

(2) The parties may agree to submit the dispute to a single arbitrator, whose authority and duties shall be the same as those of an arbitration panel. If the parties cannot agree on the arbitrator within five working days, the selection shall be made under subsection (3) of this section. The full costs of arbitration under this section shall be shared equally by the parties to the dispute.

(3) Within seven days following the issuance of the determination of the commission, each party shall name one person to serve as its arbitrator on the arbitration panel. The two members so appointed shall meet within seven days following the appointment of the later appointed member to attempt to choose a third member to act as the neutral chair of the arbitration panel. Upon the failure of the arbitrators to select a neutral chair within seven days, either party may apply to the federal mediation and conciliation service, or the American arbitration association to provide a list of five qualified arbitrators from which the neutral chair shall be chosen. Each party shall pay the fees and expenses of its arbitrator, and the fees and expenses of the neutral chair shall be shared equally between the parties.

(4) In consultation with the parties, the arbitrator or arbitration panel shall promptly establish a date, time, and place for a hearing and shall provide reasonable notice thereof to the parties to the dispute. The parties shall exchange final positions in writing, with copies to the arbitrator or arbitration panel, with respect to every issue to be arbitrated, on a date mutually agreed upon, but in no event later than ten working days before the date set for hearing. A hearing, which shall be informal, shall be held, and each party shall have the opportunity to present evidence and make argument. No member of the arbitration panel may present the case for a party to the proceedings. The rules of evidence prevailing in judicial proceedings may be considered, but are not binding, and any oral testimony or documentary evidence or other data deemed relevant by the chair of the arbitration panel may be received in evidence. A recording of the proceedings shall be taken. The arbitration panel has the power to administer oaths, require the attendance

of witnesses, and require the production of such books, papers, contracts, agreements, and documents as may be deemed by the panel to be material to a just determination of the issues in dispute. If any person refuses to obey a subpoena issued by the arbitration panel, or refuses to be sworn or to make an affirmation to testify, or any witness, party, or attorney for a party is guilty of any contempt while in attendance at any hearing held hereunder, the arbitration panel may invoke the jurisdiction of the superior court in the county where the labor dispute exists, and the court has jurisdiction to issue an appropriate order. Any failure to obey the order may be punished by the court as a contempt thereof.

(5) The neutral chair shall consult with the other members of the arbitration panel, if a panel has been created. Within thirty days following the conclusion of the hearing, the neutral chair shall make written findings of fact and a written determination of the issues in dispute, based on the evidence presented. A copy thereof shall be served on each of the other members of the arbitration panel, and on each of the parties to the dispute. That determination is final and binding upon both parties, subject to review by the superior court upon the application of either party solely upon the question of whether the decision of the panel was arbitrary or capricious.

NEW SECTION. Sec. 13. A new section is added to chapter 47.64 RCW to read as follows:

An interest arbitration proceeding under section 12 of this act exercises a state function and is, for the purposes of this chapter, functioning as a state agency. Chapter 34.05 RCW does not apply to an interest arbitration proceeding under this chapter.

NEW SECTION. Sec. 14. A new section is added to chapter 47.64 RCW to read as follows:

(1) The mediator, arbitrator, or arbitration panel may consider only matters that are subject to bargaining under this chapter.

(2) The decision of an arbitrator or arbitration panel is not binding on the legislature and, if the legislature does not approve the funds necessary to implement provisions pertaining to compensation and fringe benefit provisions of an arbitrated collective bargaining agreement, is not binding on the state, the department of transportation, or the ferry employee organization.

(3) In making its determination, the arbitrator or arbitration panel shall be mindful of the legislative purpose under RCW 47.64.005 and 47.64.006 and, as additional standards or guidelines to aid it in reaching a decision, shall take into consideration the following factors:

(a) Past collective bargaining contracts between the parties including the bargaining that led up to the contracts;

(b) The constitutional and statutory authority of the employer;

(c) Stipulations of the parties;

(d) The results of the salary survey as required in RCW 47.64.220;

(e) Comparison of wages, hours, employee benefits, and conditions of employment of the involved ferry employees with those of public and private sector employees in states along the west coast of the United States, including Alaska, and in British Columbia doing directly comparable but not necessarily identical work, giving consideration to factors peculiar to the area and the classifications involved;

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

(f) Changes in any of the foregoing circumstances during the pendency of the proceedings;

(g) The limitations on ferry toll increases and operating subsidies as may be imposed by the legislature; and

(h) Other factors that are normally or traditionally taken into consideration in the determination of matters that are subject to bargaining under this chapter.

NEW SECTION. Sec. 15. A new section is added to chapter 47.64 RCW to read as follows:

Collective bargaining under this act may not be for the purposes of making a collective bargaining agreement take effect before July 1, 2007. No party may engage in collective bargaining under this act to amend a collective bargaining agreement in effect on the effective date of this section. A collective bargaining agreement or amendment thereto entered into under this act shall not be effective before July 1, 2007, and may not have any retroactive effect.

NEW SECTION. Sec. 16. (1) This act applies prospectively only and not retroactively. It applies to collective bargaining agreements, the negotiations of collective bargaining agreements, mediations, arbitrations, and other actions under this act that arise or are commenced on or after the effective date of this section.

(2) This act does not apply to collective bargaining agreements, either in effect or for which the negotiations have begun, or mediations and arbitrations that arose or commenced under this chapter before the effective date of this section. Such collective bargaining agreements and related proceedings must be administered in accordance with the authorities, rules, and procedures that were established under this chapter as it existed before the effective date of this section. The repealers in section 19 of this act do not affect any existing right acquired, or liability or obligation incurred, under the statutes repealed or under any rule or order adopted under those statutes, nor do they affect any proceeding instituted under them.

Sec. 17. RCW 47.64.270 and 1995 1st sp.s. c 6 s 6 are each amended to read as follows:

Absent a collective bargaining agreement to the contrary, the department of transportation shall provide contributions to insurance and health care plans for ferry system employees and dependents, as determined by the state health care authority, under chapter 41.05 RCW; and the ~~((ferry system management))~~ employer and employee organizations may collectively bargain for other insurance and health care plans, and employer contributions may exceed that of other state agencies as provided in RCW 41.05.050(~~(subject to RCW 47.64.180)~~). To the extent that ferry employees by bargaining unit have absorbed the required offset of wage increases by the amount that the employer's contribution for employees' and dependents' insurance and health care plans exceeds that of other state general government employees in the 1985-87 fiscal biennium, employees shall not be required to absorb a further offset except to the extent the differential between employer contributions for those employees and all other state general government employees increases during any subsequent fiscal biennium. If such differential increases in the 1987-89 fiscal biennium or the 1985-87 offset by bargaining unit is insufficient to meet the required deduction, the amount available for compensation shall be reduced by bargaining unit by the amount of such increase or the 1985-87 shortage in the required offset. Compensation shall include all wages and employee benefits.

Sec. 18. RCW 47.64.280 and 1984 c 287 s 95 are each amended to read as follows:

(1) There is created the marine employees' commission. The governor shall appoint the commission with the consent of the senate. The commission shall consist of three members: One member to be appointed from labor, one member from industry, and one member from the public who has significant knowledge of maritime affairs. The public member shall be ~~((chairman))~~ chair of the commission. One of the original members shall be appointed for a term of three years, one for a term of four years, and one for a term of five years. Their successors shall be appointed for terms of five years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he or she succeeds. Commission members are eligible for reappointment. Any member of the commission may be removed by the governor, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause. Commission members are not eligible for state retirement under chapter 41.40 RCW by virtue of their service on the commission. Members of the commission shall be compensated in accordance with RCW 43.03.250 and shall receive reimbursement for official travel and other expenses at the same rate and on the same terms as provided for the transportation commission by RCW 47.01.061. The payments shall be made from the Puget Sound ferry operations account.

(2) The ~~((marine employees'))~~ commission shall: (a) Adjust all complaints, grievances, and disputes between labor and management arising out of the operation of the ferry system as provided in RCW 47.64.150; (b) provide for impasse mediation as required in RCW 47.64.210; (c) ~~((conduct fact-finding and))~~ provide salary surveys as required in RCW 47.64.220; and (d) ~~((provide for the selection of an impartial arbitrator as))~~ perform those duties required in ~~((RCW 47.64.240(5)))~~ section 12 of this act.

(3)(a) In adjudicating all complaints, grievances, and disputes, the party claiming labor disputes shall, in writing, notify the ~~((marine employees'))~~ commission, which shall make careful inquiry into the cause thereof and issue an order advising the ferry employee, or the ferry employee organization representing him or her, and the department of transportation, as to the decision of the commission.

(b) The parties are entitled to offer evidence relating to disputes at all hearings conducted by the commission. The orders and awards of the commission are final and binding upon any ferry employee or employees or their representative affected thereby and upon the department.

(c) The commission shall adopt rules of procedure under chapter 34.05 RCW.

(d) The commission has the authority to subpoena any ferry employee or employees, or their representatives, and any member or representative of the department, and any witnesses. The commission may require attendance of witnesses and the production of all pertinent records at any hearings held by the commission. The subpoenas of the commission are enforceable by order of any superior court in the state of Washington for the county within which the proceeding may be pending. The commission may hire staff as necessary, appoint consultants, enter into contracts, and conduct studies as reasonably necessary to carry out this chapter.

NEW SECTION. Sec. 19. The following acts or parts of acts are each repealed:

FIFTY-THIRD DAY, MARCH 2, 2006

- (1) RCW 47.64.180 (Agreements and awards limited by appropriation) and 1983 c 15 s 9;
 (2) RCW 47.64.190 (Marine employees' commission review for compliance with fiscal limitations--Effective date of agreements and arbitration orders) and 1983 c 15 s 10; and
 (3) RCW 47.64.240 (Binding arbitration) and 1989 c 327 s 3 & 1983 c 15 s 15.

NEW SECTION. Sec. 20. Section 9 of this act expires July 1, 2006.

NEW SECTION. Sec. 21. Except for section 10 of this act which takes effect July 1, 2006, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

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

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to Substitute House Bill No. 3178.

The motion by Senator Haugen 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 "employees;" strike the remainder of the title and insert "amending RCW 47.64.011, 47.64.120, 47.64.130, 47.64.140, 47.64.170, 47.64.200, 47.64.210, 47.64.220, 47.64.220, 47.64.230, 47.64.270, and 47.64.280; adding new sections to chapter 47.64 RCW; creating a new section; repealing RCW 47.64.180, 47.64.190, and 47.64.240; providing an effective date; providing an expiration date; and declaring an emergency."

MOTION

On motion of Senator Haugen, the rules were suspended, Substitute House Bill No. 3178 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 Haugen and Benson spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 3178 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3178 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 Benson, Benton, Berkey, Brandland, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Excused: Senators Brown and Kline - 2

2006 REGULAR SESSION

SUBSTITUTE HOUSE BILL NO. 3178 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. 2804, by House Committee on Finance (originally sponsored by Representatives Conway, Holmquist, Serben, McIntire, Ahern, McDermott, Rodne, Buri, McDonald, McCune and Dunn)

Modifying the property tax exemption for nonprofit schools and colleges.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, Substitute House Bill No. 2804 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator Weinstein, Senator Doumit was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2804.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2804 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Doumit and Kline - 2

SUBSTITUTE HOUSE BILL NO. 2804, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Brandland, Senator Carrell was excused.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2908, by House Committee on Local Government (originally sponsored by Representatives Bailey, Schindler and Strow)

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

Modifying the boundary provision for Island county.

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

The measure was read the second time.

MOTION

MOTION

On motion of Senator Kastama, the rules were suspended, Substitute House Bill No. 2908 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 2382 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.

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

MOTION

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2908.

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

MOTION

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2908 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

On motion of Senator Weinstein, Senators Kastama, Hargrove and Regala were excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2382 as amended by the Senate.

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

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2382 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 41; Nays, 3; Absent, 1; Excused, 4.

Excused: Senators Carrell, Doumit and Kline - 3

SUBSTITUTE HOUSE BILL NO. 2908, 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.

Voting yea: Senators Benson, Benton, Berkey, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Oke, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau and Zarelli - 41

Voting nay: Senators McCaslin, Poulsen and Weinstein - 3

Absent: Senator Morton - 1

Excused: Senators Brandland, Hargrove, Mulliken and Regala - 4

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2382, by Representatives Kretz, Haler and Holmquist

Providing limited liability immunity for injuries at bovine handling facilities.

SUBSTITUTE HOUSE BILL NO. 2382 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The measure was read the second time.

SECOND READING

MOTION

Senator Rasmussen moved that the following amendment by Senators Kline and Johnson be adopted.

HOUSE BILL NO. 2380, by Representatives Serben, Lantz, Rodne, Haler and Schual-Berke

On page 2, line 14, after "means" strike "an" and insert "a cooperative not-for-profit"

Changing the threshold age of minors under the uniform transfers to minors act.

On page 2, line 14, after "facility" insert ", such as a corral,"

On page 2, line 16, after "basis," strike "such as corrals" and insert "and does not include commercial slaughter facilities"

The measure was read the second time.

Senators Johnson and Kline spoke in favor of adoption of the amendment.

MOTION

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators Kline and Johnson on page 2, line 14 to Substitute House Bill No. 2382.

On motion of Senator Kline, the rules were suspended, House Bill No. 2380 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

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

MOTION

On motion of Senator Schoesler, Senator Morton was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 2380.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2380 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

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

Absent: Senator Doumit - 1

Excused: Senators Brandland, Hargrove, Mulliken and Regala - 4

HOUSE BILL NO. 2380, 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 JOINT MEMORIAL NO. 4023, by Representatives Moeller, Buck, Kessler, DeBolt, Haigh, Talcott, Morrell, Newhouse, Williams, Serben and Eickmeyer

Requesting Congress to enact the Kidney Care Quality Improvement Act of 2005.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, House Joint Memorial No. 4023 was advanced to third reading, the second reading considered the third and the resolution was placed on final passage.

Senator Finkbeiner spoke in favor of passage of the memorial.

The President Pro Tempore declared the question before the Senate to be the final passage of House Joint Memorial No. 4023.

ROLL CALL

The Secretary called the roll on the final passage of House Joint Memorial No. 4023 and the resolution passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 2; Excused, 4.

Voting yea: Senators Benson, Benton, Berkey, Brown, Carrell, Deccio, Delvin, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Hewitt, Honeyford, Jacobsen,

Johnson, Kastama, Keiser, Kline, Kohl-Welles, McCaslin, Morton, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 43

Absent: Senators Doumit and McAuliffe - 2

Excused: Senators Brandland, Hargrove, Mulliken and Regala - 4

HOUSE JOINT MEMORIAL NO. 4023, having received the constitutional majority, was declared passed.

MOTION

On motion of Senator Weinstein, Senators Thibaudeau, Doumit and McAuliffe were excused.

SECOND READING

HOUSE BILL NO. 2972, by Representatives Clibborn, Hinkle, Curtis, B. Sullivan, Cody, Moeller, P. Sullivan, Kenney, Kilmer and Jarrett

Determining community rates for health benefit plans.

The measure was read the second time.

MOTION

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

On page 10, after line 35 insert the following:

"NEW SECTION. Sec. 7. No policy or contract may be solicited, or contribution collected under this act until a federal opinion is received by the insurance commissioner indicating whether the purchasing pools referenced in sections 2, 4, and 6 of this act are legal. The commissioner shall request such an opinion from the federal departments of labor, treasury, health and human services, or other appropriate federal agencies no later than August 1, 2006. Upon receipt, the commissioner shall forward the opinion to the legislature, and within 30 days, provide the legislature with a report assessing the legality and potential impact of these purchasing pools on the uninsured and insurance markets in Washington state."

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

The President Pro Tempore declared the question before the Senate to be the adoption of the committee amendment by the Committee on Health & Long-Term Care to House Bill No. 2972.

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

MOTION

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

On page 1, line 3, after "48.44 RCW;" strike the remainder of the title and insert "adding a new section to chapter 48.46 RCW; and creating a new section."

MOTION

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

On motion of Senator Keiser, the rules were suspended, House Bill No. 2972 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 2972 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2972 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

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

Excused: Senators Brandland, Doumit, Hargrove, Regala and Thibaudeau - 5

HOUSE BILL NO. 2972 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. 2579, by Representatives Upthegrove, Lantz, Dickerson, Appleton, Morrell, Hasegawa, Quall, Hunter, Haler, O'Brien, Murray, Hunt, Schual-Berke, Ormsby, Springer and Moeller

Requiring classroom-based civics assessments.

The measure was read the second time.

MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Early Learning, K-12 & Higher Education be not adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that instruction in social studies, arts, health, and fitness is important to ensure a well-rounded and complete education. In particular, the civic mission of schools is strengthened and enhanced by comprehensive civics education and assessments. The legislature finds that effective and accountable democratic government depends upon an informed and engaged citizenry, and therefore, students should learn their rights and responsibilities as citizens, where those rights and responsibilities come from, and how to exercise them.

Sec. 2. RCW 28A.230.095 and 2004 c 19 s 203 are each amended to read as follows:

(1) By the end of the 2008-09 school year, school districts shall have in place in elementary schools, middle schools, and high

schools assessments or other strategies to assure that students have an opportunity to learn the essential academic learning requirements in social studies, the arts, and health and fitness. Social studies includes history, geography, civics, economics, and social studies skills. Beginning with the 2008-09 school year, school districts shall annually submit an implementation verification report to the office of the superintendent of public instruction.

(2) Beginning with the 2008-09 school year, school districts shall require students in the fourth or fifth grades, the seventh or eighth grades, and the eleventh or twelfth grades to each complete at least one classroom-based assessment in civics. The civics assessment may be selected from a list of classroom-based assessments approved by the office of the superintendent of public instruction. Beginning with the 2008-09 school year, school districts shall annually submit implementation verification reports to the office of the superintendent of public instruction documenting the use of the classroom-based assessments in civics.

NEW SECTION. Sec. 3. (1) The legislature finds that the complexity of modern political life has created a demand for informed citizens who are willing not only to vote, but also to participate in the elections process.

(2) The purpose of this section is to create a pilot project to help graduate students who are better voters, better citizens, and who are ready to take an informed and responsible place in society.

(3) The office of the superintendent of public instruction shall work with selected county auditors' offices to develop an interactive high school civics curriculum to help students learn how to become informed citizens. The curriculum shall meet the requirements for the office of the superintendent of public instruction's classroom-based assessments. Staff from the office of the superintendent of public instruction shall work directly in the curriculum development.

(4) Counties shall apply to, and be selected by, the office of the superintendent of public instruction to participate in the pilot project under this section. A maximum of fifteen counties may participate.

(5) The curriculum shall include, but not be limited to:

(a) Local government organization;

(b) A discussion of ballot measures, initiatives, and referenda;

(c) The role of the precinct in defining ballots, candidates, and political activities;

(d) The roles and responsibilities of taxing jurisdictions in establishing ballot measures; and

(e) The work of conducting elections.

(6) The study may include in the curriculum civics essential academic learning requirements relating to examining representative government and citizen participation and analyzing the purposes and organization of government and laws.

(7) A curriculum guide shall be developed that will help teachers and students maximize the learning of key issues in civics, and shall include strategies for helping students develop voters' guide information for ballot issues and candidates who appear on the ballot. This guide should incorporate ideas from other Washington state civics education programs, such as "We the People" and "Project Citizen." The guide should also present ideas for sharing the results of an election with the

FIFTY-THIRD DAY, MARCH 2, 2006

larger community and with local government officials in productive, meaningful ways.

(8) As part of the pilot project, high school students in participating counties shall be selected who will have supervised access to the county's election reporting web site to assist the county in managing its internet election reporting system. School districts in participating counties shall select students to participate in this aspect of the pilot project. Counties shall provide technical assistance and elections expertise to participating schools, either through existing staff resources or through a county-chosen vendor.

(9) In addition to the required components of the pilot project under this section, other activities may be included in the project, such as:

(a) Conducting mock county elections at schools;

(b) Using a school version of the county's reporting and election system to conduct school elections, including, where possible, having school election results posted on the county's election web site; and

(c) Preparing an advisory issue on which the school or local community would vote, including issue preparation, conducting the election, and preparing a presentation to a local government official on the results of the advisory issue.

(10) The pilot project shall operate for the 2006-07 and 2007-08 school years.

(11) Funds for the pilot project shall be made available to the office of the superintendent of public instruction for a contract position in civics curriculum and for support costs for soliciting and implementing volunteer participation.

(12) The office of the superintendent of public instruction shall adopt rules to implement this section, including rules specifying selection criteria for counties that wish to participate.

(13) The superintendent of public instruction shall provide an interim report to appropriate committees of the legislature by December 1, 2008, and a final report by December 1, 2009, detailing the results of the project and budget recommendations for expansion, if appropriate.

(14) This section expires January 31, 2010.

NEW SECTION. Sec. 4. The office of the secretary of state shall enter into an interlocal agreement under chapter 39.34 RCW with the office of the superintendent of public instruction in which the office of the secretary of state shall pay the office of the superintendent of public instruction a minimum of four hundred forty thousand dollars, representing funds received by the office of the secretary of state under the federal help America vote act, for the purpose of curriculum development by the office of the superintendent of public instruction under this section. Initial payment of two hundred forty thousand dollars under this section shall be made no later than July 1, 2006. Funds under this section shall be used for an eighteen-month contract position at the office of the superintendent of public instruction, including seminars and follow-up costs.

NEW SECTION. Sec. 5. The office of the secretary of state shall enter into an interlocal agreement under chapter 39.34 RCW with the auditor's office in which the office of the secretary of state shall pay the auditor's office a minimum of two hundred thousand dollars, representing funds received by the office of the secretary of state under the federal help America vote act, to be made available by the auditor's office directly to participating counties for internet requirements by December 31, 2008. Funding is for the purpose of supporting the prototype project. Counties may use funds for in-house

2006 REGULAR SESSION

development, vendor agreements, or to support existing services. Funding priority shall be given to counties in which technology and budgeting constraints would make participating in the pilot project a funding liability.

NEW SECTION. Sec. 6. The sum of twenty-five thousand dollars, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 2007, from the general fund to the superintendent of public instruction. The superintendent shall use the funds to provide competitive grants to school districts for curriculum alignment, development of innovative civics projects, and other activities that support the civics assessment under this act. As a condition of grant receipt, districts shall make the products developed under the grant widely available as examples of best practices."

On page 1, line 1 of the title, after "assessments;" strike the remainder of the title and insert "amending RCW 28A.230.095; creating new sections; making an appropriation; and providing an expiration date."

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

The President Pro Tempore declared the question before the Senate to be the motion by Senator McAuliffe to not adopt the committee striking amendment by the Committee on Early Learning, K-12 & Higher Education to Engrossed House Bill No. 2579.

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

MOTION

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

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. The legislature finds that instruction in social studies, arts, health, and fitness is important to ensure a well-rounded and complete education. In particular, the civic mission of schools is strengthened and enhanced by comprehensive civics education and assessments. The legislature finds that effective and accountable democratic government depends upon an informed and engaged citizenry, and therefore, students should learn their rights and responsibilities as citizens, where those rights and responsibilities come from, and how to exercise them.

Sec. 2. RCW 28A.230.095 and 2004 c 19 s 203 are each amended to read as follows:

(1) By the end of the 2008-09 school year, school districts shall have in place in elementary schools, middle schools, and high schools assessments or other strategies to assure that students have an opportunity to learn the essential academic learning requirements in social studies, the arts, and health and fitness. Social studies includes history, geography, civics, economics, and social studies skills. Beginning with the 2008-09 school year, school districts shall annually submit an implementation verification report to the office of the superintendent of public instruction.

(2) Beginning with the 2008-09 school year, school districts shall require students in the fourth or fifth grades, the seventh or eighth grades, and the eleventh or twelfth grades to each complete at least one classroom-based assessment in civics. The civics assessment may be selected from a list of classroom-based assessments approved by the office of the superintendent of public instruction. Beginning with the 2008-09 school year, school districts shall annually submit implementation verification reports to the office of the superintendent of public instruction documenting the use of the classroom-based assessments in civics.

FIFTY-THIRD DAY, MARCH 2, 2006

NEW SECTION. Sec. 3. (1) The legislature finds that the complexity of modern political life has created a demand for informed citizens who are willing not only to vote, but also to participate in the elections process.

(2) The purpose of this section is to create a pilot project to help graduate students who are better voters, better citizens, and who are ready to take an informed and responsible place in society.

(3) The office of the superintendent of public instruction shall work with selected county auditors' offices to develop an interactive high school civics curriculum to help students learn how to become informed citizens. The curriculum shall meet the requirements for the office of the superintendent of public instruction's classroom-based assessments. Staff from the office of the superintendent of public instruction shall work directly in the curriculum development.

(4) Counties shall apply to, and be selected by, the office of the superintendent of public instruction to participate in the pilot project under this section. A maximum of fifteen counties may participate.

(5) The curriculum shall include, but not be limited to:

(a) Local government organization;

(b) A discussion of ballot measures, initiatives, and referenda;

(c) The role of the precinct in defining ballots, candidates, and political activities;

(d) The roles and responsibilities of taxing jurisdictions in establishing ballot measures; and

(e) The work of conducting elections.

(6) The study may include in the curriculum civics essential academic learning requirements relating to examining representative government and citizen participation and analyzing the purposes and organization of government and laws.

(7) A curriculum guide shall be developed that will help teachers and students maximize the learning of key issues in civics, and shall include strategies for helping students develop voters' guide information for ballot issues and candidates who appear on the ballot. This guide should incorporate ideas from other Washington state civics education programs, such as "We the People" and "Project Citizen." The guide should also present ideas for sharing the results of an election with the larger community and with local government officials in productive, meaningful ways.

(8) In addition to the required components of the pilot project under this section, other activities may be included in the project, such as:

(a) Conducting mock county elections at schools; and

(b) Preparing an advisory issue on which the school would vote, including issue preparation, conducting the election, and preparing a presentation to a local government official on the results of the advisory issue.

(9) The pilot project shall operate for the 2006-07 and 2007-08 school years.

(10) Funds for the pilot project shall be made available to the office of the superintendent of public instruction for a contract position in civics curriculum and for support costs for soliciting and implementing volunteer participation.

(11) The office of the superintendent of public instruction shall adopt rules to implement this section, including rules specifying selection criteria for counties that wish to participate.

(12) The superintendent of public instruction shall provide an interim report to appropriate committees of the legislature by December 1, 2008, and a final report by December 1, 2009, detailing the results of the project and budget recommendations for expansion, if appropriate.

(13) This section expires January 31, 2010.

NEW SECTION. Sec. 4. The sum of twenty-five thousand dollars, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 2007, from the general fund to the superintendent of public instruction. The superintendent

2006 REGULAR SESSION

shall use the funds to provide competitive grants to school districts for curriculum alignment, development of innovative civics projects, and other activities that support the civics assessment under this act. As a condition of grant receipt, districts shall make the products developed under the grant widely available as examples of best practices."

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

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senator McAuliffe to Engrossed House Bill No. 2579.

The motion by Senator McAuliffe 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 "assessments;" strike the remainder of the title and insert "amending RCW 28A.230.095; creating new sections; making an appropriation; and providing an expiration date."

MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed House Bill No. 2579 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, Delvin and Johnson spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed House Bill No. 2579 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2579 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 1; Absent, 0; Excused, 4.

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

Voting nay: Senator Roach - 1

Excused: Senators Brandland, Hargrove, Regala and Thibaudeau - 4

ENGROSSED HOUSE BILL NO. 2579 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. 3154, by Representatives Condotta, Wood and Newhouse

Concerning the retail sale of beer.

The measure was read the second time.

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, House Bill No. 3154 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Parlette spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 3154.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3154 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 1; Absent, 0; Excused, 4.

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

Voting nay: Senator Oke - 1

Excused: Senators Brandland, Hargrove, Regala and Thibaudeau - 4

HOUSE BILL NO. 3154, 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. 3079, by House Committee on Appropriations (originally sponsored by Representatives Conway, Cody, Sells, Dickerson, Morrell, Simpson, Schual-Berke, Hasegawa, Chase and Santos)

Reporting on the employment status of recipients of medicaid and the basic health plan.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 70.47 RCW to read as follows:

(1) The health care authority, in coordination with the department of social and health services, shall by November 15th of each year report to the legislature:

(a) The number of basic health plan enrollees who upon enrollment or recertification had reported being employed, or who had reported being the dependent of someone who was employed, and the total cost to the state for these enrollees. The information shall be reported by employer for employers having more than fifty employees as enrollees or with dependents as enrollees. This information shall be provided for the preceding January and June of that year.

(b) The following aggregated information: (i) The number of employees who are enrollees or with dependents as enrollees by private and governmental employers; (ii) The number of employees who are enrollees or with dependents as enrollees by employer size for employers with 50 or fewer employees, 51 to 100 employees, 101 to 1000 employees, 1001 to 5,000 employees and more than 5,000 employees; and (iii) The number of employees who are enrollees or with dependents as enrollees by industry type.

For each aggregated classification, the report will include the number of hours worked and total cost to the state for these enrollees. This information shall be for each quarter of the preceding year.

NEW SECTION. Sec. 2. A new section is added to chapter 74.09 RCW to read as follows:

(1) The department of social and health services, in coordination with the health care authority, shall by November 15th of each year report to the legislature:

(a) The number of medical assistance recipients who upon enrollment or recertification had reported being employed, or who had reported being the dependent of someone who was employed; the basis for their medical assistance eligibility, including but not limited to family medical coverage, transitional medical assistance, children's medical or aged or disabled coverage; member months; and the total cost to the state for these recipients, expressed as general fund-state, health services account and general fund-federal dollars. The information shall be reported by employer for employers having more than fifty employees as recipients or with dependents as recipients. This information shall be provided for the preceding January and June of that year.

(b) The following aggregated information: (i) The number of employees who are recipients or with dependents as recipients by private and governmental employers; (ii) The number of employees who are recipients or with dependents as recipients by employer size for employers with 50 or fewer employees, 51 to 100 employees, 101 to 1000 employees, 1001 to 5,000 employees and more than 5,000 employees; and (iii) The number of employees who are recipients or with dependents as recipients by industry type.

For each aggregated classification, the report will include the number of hours worked, the number of department of social and health services covered lives, and the total cost to the state for these recipients. This information shall be for each quarter of the preceding year.

NEW SECTION. Sec. 3. If specific funding for the purpose of this act, referencing this act by bill or chapter number, is not provided by June 30, 2006, in the omnibus appropriations act, this act is null and void."

MOTION

Senator Keiser moved that the following amendment by Senators Keiser, Deccio and Brandland to the committee striking amendment be adopted.

On page 1, line 8 after "(a)" strike all material through "enrollees" on line 11, and insert the following:

"The number of basic health plan enrollees who: (i) upon enrollment or recertification had reported being employed, and the month and year they reported being hired; (ii) upon enrollment or recertification had reported being the dependent of someone who was employed, and the month and year they

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

reported the employed person was hired; and (iii) the total cost to the state for these enrollees"

On page 1, line 31 after "(a)" strike all material through "employed;" on page 2, line 1, and insert the following:

"The number of medical assistance recipients who: (i) upon enrollment or recertification had reported being employed, and the month and year they reported being hired; or (ii) upon enrollment or recertification had reported being the dependent of someone who was employed, and the month and year they reported the employed person was hired. For recipients identified under (i) and (ii), the department shall report"

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

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators Keiser, Deccio and Brandland on page 1, line 8 to the committee striking amendment to Engrossed Substitute House Bill No. 3079.

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

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

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care as amended to Engrossed Substitute House Bill No. 3079.

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

MOTION

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

On page 1, line 1 of the title, after "services;" strike all material through "section" on line 3 and insert "adding a new section to chapter 70.47 RCW; adding a new section to chapter 74.09 RCW; and creating a new section."

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute House Bill No. 3079 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.

POINT OF INQUIRY

Senator Deccio: "Would Senator Keiser yield to a question? Senator Keiser, is it my understanding that all employers, including governmental entities, would be included in this survey to determine how many employees are under the Basic Health Plan that work for government. Is that correct?"

Senator Keiser: "Senator Deccio, my reading of the bill and of the striking amendment both indicate that any employer is subject to identification if they have thirty or fewer employees. So, there is a little bit of exemption based on size but not whether they're government or whether they're a private sector employer."

Senator Deccio spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 3079 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 3079, as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Brandland, Hargrove, Regala and Thibaudeau - 4

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3079 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. 2553, by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Kirby and Morrell)

Regulating service contracts and guarantee protection products. Revised for 1st Substitute: Regulating service contracts and protection product guarantees.

The measure was read the second time.

MOTION

Senator Berkey moved that the following committee striking amendment by the Committee on Financial Institutions, Housing & Consumer Protection be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 48.110.010 and 1999 c 112 s 1 are each amended to read as follows:

The legislature finds that increasing numbers of businesses are selling service contracts for repair, replacement, and maintenance of motor vehicles, appliances, computers, electronic equipment, and other consumer products. There are risks that contract obligors will close or otherwise be unable to fulfill their contract obligations that could result in unnecessary and preventable losses to citizens of this state. The legislature declares that it is necessary to establish standards that will safeguard the public from possible losses arising from the conduct or cessation of the business of service contract obligors or the mismanagement of funds paid for service contracts. The purpose of this chapter is to create a legal framework within which service contracts may be sold in this state and to set forth requirements for conducting a service contract business.

Sec. 2. RCW 48.110.015 and 2000 c 208 s 1 are each amended to read as follows:

(1) The following are exempt from this title:

- (a) Warranties;
- (b) Maintenance agreements; and
- (c) Service contracts:
 - (i) Paid for with separate and additional consideration;
 - (ii) Issued at the point of sale, or within sixty days of the original purchase date of the property; and
 - (iii) On tangible property when the tangible property for which the service contract is sold has a purchase price of fifty dollars or less, exclusive of sales tax.

(2) This chapter does not apply to:

(a) ~~(Vehicle service contracts which are governed under chapter 48.96 RCW;~~

~~(b))~~ Vehicle mechanical breakdown insurance; and

~~((c))~~ (b) Service contracts on tangible personal property purchased by persons who are not consumers.

Sec. 3. RCW 48.110.020 and 2000 c 208 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Administrator" means the person who is responsible for the administration of the service contracts ~~((or))~~, the service contracts plan, or the protection product guarantees.

(2) "Commissioner" means the insurance commissioner of this state.

(3) "Consumer" means an individual who buys any tangible personal property that is primarily for personal, family, or household use.

(4) "Incidental costs" means expenses specified in the guarantee incurred by the protection product guarantee holder related to damages to other property caused by the failure of the protection product to perform as provided in the guarantee. "Incidental costs" may include, without limitation, insurance policy deductibles, rental vehicle charges, the difference between the actual value of the stolen vehicle at the time of theft and the cost of a replacement vehicle, sales taxes, registration fees, transaction fees, and mechanical inspection fees. Incidental costs may be paid under the provisions of the protection product guarantee in either a fixed amount specified in the protection product guarantee or sales agreement, or by the use of a formula itemizing specific incidental costs incurred by the protection product guarantee holder to be paid.

(5) "Protection product" means any product offered or sold with a guarantee to repair or replace another product or pay incidental costs upon the failure of the product to perform pursuant to the terms of the protection product guarantee.

(6) "Protection product guarantee" means a written agreement by a protection product guarantee provider to repair or replace another product or pay incidental costs upon the failure of the protection product to perform pursuant to the terms of the protection product guarantee.

(7) "Protection product guarantee provider" means a person who is contractually obligated to the protection product guarantee holder under the terms of the protection product guarantee. Protection product guarantee provider does not include an authorized insurer providing a reimbursement insurance policy.

(8) "Protection product guarantee holder" means a person who is the purchaser or permitted transferee of a protection product guarantee.

(9) "Protection product seller" means the person who sells the protection product to the consumer.

(10) "Maintenance agreement" means a contract of limited duration that provides for scheduled maintenance only.

~~((5))~~ (11) "Motor vehicle" means any vehicle subject to registration under chapter 46.16 RCW.

(12) "Person" means an individual, partnership, corporation, incorporated or unincorporated association, joint stock company, reciprocal insurer, syndicate, or any similar entity or combination of entities acting in concert.

~~((6))~~ (13) "Premium" means the consideration paid to an insurer for a reimbursement insurance policy.

~~((7))~~ (14) "Provider fee" means the consideration paid by a consumer for a service contract.

~~((8))~~ (15) "Reimbursement insurance policy" means a policy of insurance that is issued to a service contract provider or a protection product guarantee provider to provide reimbursement to the service contract provider or the protection product guarantee provider or to pay on behalf of the service contract provider or the protection product guarantee provider all contractual obligations incurred by the service contract provider or the protection product guarantee provider under the terms of the insured service contracts or protection product guarantees issued or sold by the service contract provider or the protection product guarantee provider.

~~((9))~~ (16) "Service contract" means a contract or agreement for ~~(a separately stated)~~ consideration over and above the lease or purchase price of the property for a specific duration to perform the repair, replacement, or maintenance of property or the indemnification for repair, replacement, or maintenance for operational or structural failure due to a defect in materials or workmanship, or normal wear and tear. Service contracts may provide for the repair, replacement, or maintenance of property for damage resulting from power surges and accidental damage from handling, with or without additional provision for ~~(indemnity payments for incidental damages to other property directly caused by the failure of the property which is the subject of the service contract, provided the indemnity payment per incident does not exceed the purchase price of the property that is the subject of the service contract))~~ incidental payment of indemnity under limited circumstances, including towing, rental, emergency road services, or other expenses relating to the failure of the product or of a component part thereof.

~~((10))~~ (17) "Service contract holder" or "contract holder" means a person who is the purchaser or holder of a service contract.

~~((11))~~ (18) "Service contract provider" means a person who is contractually obligated to the service contract holder under the terms of the service contract.

~~((12))~~ (19) "Service contract seller" means the person who sells the service contract to the consumer.

~~((13))~~ (20) "Warranty" means a warranty made solely by the manufacturer, importer, or seller of property or services without consideration; that is not negotiated or separated from the sale of the product and is incidental to the sale of the product; and that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor, or other remedial measures, such as repair or replacement of the property or repetition of services.

Sec. 4. RCW 48.110.030 and 2005 c 223 s 33 are each amended to read as follows:

(1) A person may not act as, or offer to act as, or hold himself or herself out to be a service contract provider in this state, nor may a service contract be sold to a consumer in this

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

state, unless the service contract provider has a valid registration as a service contract provider issued by the commissioner.

(2) Applicants to be a service contract provider must make an application to the commissioner upon a form to be furnished by the commissioner. The application must include or be accompanied by the following information and documents:

(a) All basic organizational documents of the service contract provider, including any articles of incorporation, articles of association, partnership agreement, trade name certificate, trust agreement, shareholder agreement, bylaws, and other applicable documents, and all amendments to those documents;

(b) The identities of the service contract provider's executive officer or officers directly responsible for the service contract provider's service contract business, and, if more than fifty percent of the service contract provider's gross revenue is derived from the sale of service contracts, the identities of the service contract provider's directors and stockholders having beneficial ownership of ten percent or more of any class of securities;

(c) Audited annual financial statements or other financial reports acceptable to the commissioner for the two most recent years which prove that the applicant is solvent and any information the commissioner may require in order to review the current financial condition of the applicant. If the service contract provider is relying on RCW 48.110.050(2) ~~((**ta** or))~~ (c) to assure the faithful performance of its obligations to service contract holders, then the audited financial statements of the service contract provider's parent company ~~((**may be substituted for the audited financial statements of the service contract provider**))~~ must also be filed;

(d) An application fee of two hundred fifty dollars, which shall be deposited into the general fund; and

(e) Any other pertinent information required by the commissioner.

(3) The applicant shall appoint the commissioner as its attorney to receive service of legal process in any action, suit, or proceeding in any court. This appointment is irrevocable and shall bind the service contract provider or any successor in interest, shall remain in effect as long as there is in force in this state any contract or any obligation arising therefrom related to residents of this state, and shall be processed in accordance with RCW 48.05.210.

(4) The commissioner may refuse to issue a registration if the commissioner determines that the service contract provider, or any individual responsible for the conduct of the affairs of the service contract provider under subsection (2)(b) of this section, is not competent, trustworthy, financially responsible, or has had a license as a service contract provider or similar license denied or revoked for cause by any state.

(5) A registration issued under this section is valid, unless surrendered, suspended, or revoked by the commissioner, or not renewed for so long as the service contract provider continues in business in this state and remains in compliance with this chapter. A registration is subject to renewal annually on the first day of July upon application of the service contract provider and payment of a fee of two hundred dollars, which shall be deposited into the general fund. If not so renewed, the registration expires on the June 30th next preceding.

(6) A service contract provider shall keep current the information required to be disclosed in its registration under this section by reporting all material changes or additions within

thirty days after the end of the month in which the change or addition occurs.

Sec. 5. RCW 48.110.040 and 2005 c 223 s 34 are each amended to read as follows:

(1) Every registered service contract provider ~~((**that is assuring its faithful performance of its obligations to its service contract holders by complying with RCW 48.110.050(2)(b))**~~) must file an annual report for the preceding calendar year with the commissioner on or before March 1st of each year, or within any extension of time the commissioner for good cause may grant. The report must be in the form and contain those matters as the commissioner prescribes and shall be verified by at least two officers of the service contract provider.

(2) At the time of filing the report, the service contract provider must pay a filing fee of twenty dollars which shall be deposited into the general fund.

(3) As part of any investigation by the commissioner, the commissioner may require a service contract provider to file monthly financial reports whenever, in the commissioner's discretion, there is a need to more closely monitor the financial activities of the service contract provider. Monthly financial statements must be filed in the commissioner's office no later than the twenty-fifth day of the month following the month for which the financial report is being filed. These monthly financial reports are the internal financial statements of the service contract provider. The monthly financial reports that are filed with the commissioner constitute information that might be damaging to the service contract provider if made available to its competitors, and therefore shall be kept confidential by the commissioner. This information may not be made public or be subject to subpoena, other than by the commissioner and then only for the purpose of enforcement actions taken by the commissioner.

Sec. 6. RCW 48.110.050 and 1999 c 112 s 6 are each amended to read as follows:

(1) Service contracts shall not be issued, sold, or offered for sale in this state or sold to consumers in this state unless the service contract provider has:

(a) Provided a receipt for, or other written evidence of, the purchase of the service contract to the contract holder; and

(b) Provided a copy of the service contract to the service contract holder within a reasonable period of time from the date of purchase.

(2) In order to either demonstrate its financial responsibility or assure the faithful performance of ~~((**ta**))~~ the service contract provider's obligations to its service contract holders, every service contract provider shall ~~((**be responsible for complying**))~~ comply with the requirements of one of the following:

(a) Insure all service contracts under a reimbursement insurance policy issued by an insurer holding a certificate of authority from the commissioner or a risk retention group, as defined in 15 U.S.C. Sec. 3901(a)(4), as long as that risk retention group is in full compliance with the federal liability risk retention act of 1986 (15 U.S.C. Sec. 3901 et seq.), is in good standing in its domiciliary jurisdiction, and is properly registered with the commissioner under chapter 48.92 RCW. The insurance required by this subsection must meet the following requirements:

(i) The insurer or risk retention group must, at the time the policy is filed with the commissioner, and continuously thereafter, maintain surplus as to policyholders and paid-in

capital of at least fifteen million dollars and annually file audited financial statements with the commissioner; and

(ii) The commissioner may authorize an insurer or risk retention group that has surplus as to policyholders and paid-in capital of less than fifteen million dollars, but at least equal to ten million dollars, to issue the insurance required by this subsection if the insurer or risk retention group demonstrates to the satisfaction of the commissioner that the company maintains a ratio of direct written premiums, wherever written, to surplus as to policyholders and paid-in capital of not more than three to one;

(b)(i) Maintain a funded reserve account for its obligations under its service contracts issued and outstanding in this state. The reserves shall not be less than forty percent of the gross consideration received, less claims paid, on the sale of the service contract for all in-force contracts. The reserve account shall be subject to examination and review by the commissioner; and

(ii) Place in trust with the commissioner a financial security deposit, having a value of not less than five percent of the gross consideration received, less claims paid, on the sale of the service contract for all service contracts issued and in force, but not less than twenty-five thousand dollars, consisting of one of the following:

(A) A surety bond issued by an insurer holding a certificate of authority from the commissioner;

(B) Securities of the type eligible for deposit by authorized insurers in this state;

(C) Cash;

(D) An evergreen letter of credit issued by a qualified financial institution; or

(E) Another form of security prescribed by rule by the commissioner; or

(c)(i) Maintain, or its parent company maintain, a net worth or stockholder's equity of at least one hundred million dollars; and

(ii) Upon request, provide the commissioner with a copy of the service contract provider's or the service contract provider's parent company's most recent form 10-K or form 20-F filed with the securities and exchange commission within the last calendar year, or if the company does not file with the securities and exchange commission, a copy of the service contract provider's or the service contract provider's parent company's audited financial statements, which shows a net worth of the service contract provider or its parent company of at least one hundred million dollars. If the service contract provider's parent company's form 10-K, form 20-F, or audited financial statements are filed with the commissioner to meet the service contract provider's financial stability requirement, then the parent company shall agree to guarantee the obligations of the service contract provider relating to service contracts sold by the service contract provider in this state. A copy of the guarantee shall be filed with the commissioner. The guarantee shall be irrevocable as long as there is in force in this state any contract or any obligation arising from service contracts guaranteed, unless the parent company has made arrangements approved by the commissioner to satisfy its obligations under the guarantee.

(3) Service contracts shall require the service contract provider to permit the service contract holder to return the service contract within twenty days of the date the service contract was mailed to the service contract holder or within ten days of delivery if the service contract is delivered to the service

contract holder at the time of sale, or within a longer time period permitted under the service contract. Upon return of the service contract to the service contract provider within the applicable period, if no claim has been made under the service contract prior to the return to the service contract provider, the service contract is void and the service contract provider shall refund to the service contract holder, or credit the account of the service contract holder with the full purchase price of the service contract. The right to void the service contract provided in this subsection is not transferable and shall apply only to the original service contract purchaser. A ten percent penalty per month shall be added to a refund of the purchase price that is not paid or credited within thirty days after return of the service contract to the service contract provider.

~~(4) (Except for service contract providers, persons marketing, selling, or offering to sell service contracts for providers are exempt from the registration requirements of RCW 48.110.030.~~

~~(5) The marketing, sale, offering for sale, issuance, making, proposing to make, and administration of service contracts by service contract providers and related service contract sellers, administrators, and other persons complying with this chapter are exempt from the other provisions of this title, except chapter 48.04 RCW and as otherwise provided in this chapter.) This section does not apply to service contracts on motor vehicles or to protection product guarantees.~~

Sec. 7. RCW 48.110.060 and 1999 c 112 s 7 are each amended to read as follows:

(1) Reimbursement insurance policies insuring service contracts or protection product guarantees issued, sold, or offered for sale in this state or issued or sold to consumers in this state shall state that the insurer that issued the reimbursement insurance policy shall reimburse or pay on behalf of the service contract provider or the protection product guarantee provider all sums the service contract provider or the protection product guarantee provider is legally obligated to pay, including but not limited to the refund of the full purchase price of the service contract to the service contract holder or shall provide the service which the service contract provider or the protection product guarantee provider is legally obligated to perform according to the service contract provider's or protection product guarantee provider's contractual obligations under the service contracts or protection product guarantees issued or sold by the service contract provider or the protection product guarantee provider.

(2) The reimbursement insurance policy shall fully insure the obligations of the service contract provider or protection product guarantee provider, rather than partially insure, or insure only in the event of service contract provider or protection product guarantee provider default.

(3) The reimbursement insurance policy shall state that the service contract holder or protection product guarantee holder is entitled to apply directly to the reimbursement insurance company for payment or performance due.

Sec. 8. RCW 48.110.070 and 1999 c 112 s 8 are each amended to read as follows:

(1) Service contracts marketed, sold, offered for sale, issued, made, proposed to be made, or administered in this state or sold to residents of this state shall be written, printed, or typed in clear, understandable language that is easy to read, and disclose the requirements set forth in this section, as applicable.

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

(2) Service contracts insured under a reimbursement insurance policy under RCW 48.110.050(2)(a) and 48.110.060 shall not be issued, sold, or offered for sale in this state or sold to residents of this state unless the service contract conspicuously contains a statement in substantially the following form: "Obligations of the service contract provider under this service contract are insured under a service contract reimbursement insurance policy." The service contract shall also conspicuously state the name and address of the issuer of the reimbursement (~~(insurance)~~) insurance policy and state that the service contract holder is entitled to apply directly to the reimbursement insurance company.

(3) Service contracts not insured under a reimbursement insurance policy under RCW 48.110.050(2)(a) and 48.110.060 shall contain a statement in substantially the following form: "Obligations of the service contract provider under this contract are backed by the full faith and credit of the service contract provider."

(4) Service contracts shall state the name and address of the service contract provider and shall identify any administrator if different from the service contract provider, the service contract seller, and the service contract holder to the extent that the name of the service contract holder has been furnished by the service contract holder. The identities of such parties are not required to be preprinted on the service contract and may be added to the service contract at the time of sale.

(5) Service contracts shall state the purchase price of the service contract and the terms under which the service contract is sold. The purchase price is not required to be preprinted on the service contract and may be negotiated at the time of sale.

(6) Service contracts shall state the procedure to obtain service or to file a claim, including but not limited to the procedures for obtaining prior approval for repair work, the toll-free telephone number if prior approval is necessary for service, and the procedure for obtaining emergency repairs performed outside of normal business hours or provide for twenty-four-hour telephone assistance.

(7) Service contracts shall state the existence of any deductible amount, if applicable.

(8) Service contracts shall specify the merchandise, parts, and services to be provided and any limitations, exceptions, or exclusions.

(9) Service contracts shall state any restrictions governing the transferability of the service contract, if applicable.

(10) Service contracts shall state the terms, restrictions, or conditions governing cancellation of the service contract prior to the termination or expiration date of the service contract by either the service contract provider or by the service contract holder, which rights can be no more restrictive than provided in RCW 48.110.050(3). The service contract provider of the service contract shall mail a written notice to the service contract holder at the last known address of the service contract holder contained in the records of the service contract provider at least twenty-one days prior to cancellation by the service contract provider. The notice shall state the effective date of the cancellation and the true and actual reason for the cancellation.

(11) Service contracts shall set forth the obligations and duties of the service contract holder, including but not limited to the duty to protect against any further damage and any requirement to follow owner's manual instructions.

(12) Service contracts shall state whether or not the service contract provides for or excludes consequential damages or preexisting conditions.

(13) Service contracts shall state any exclusions of coverage.

(14) Service contracts shall not contain a provision which requires that any civil action brought in connection with the service contract must be brought in the courts of a jurisdiction other than this state. Service contracts that authorize binding arbitration to resolve claims or disputes (~~(may)~~) must allow for arbitration proceedings to be held at a location in closest proximity to the service contract holder's permanent residence. This section does not apply to service contracts on motor vehicles or to protection product guarantees.

Sec. 9. RCW 48.110.080 and 1999 c 112 s 9 are each amended to read as follows:

(1) A service contract provider or protection product guarantee provider shall not use in its name the words insurance, casualty, guaranty, surety, mutual, or any other words descriptive of the insurance, casualty, guaranty, or surety business; or a name deceptively similar to the name or description of any insurance or surety corporation, or to the name of any other service contract provider or protection product guarantee provider. This subsection does not apply to a company that was using any of the prohibited language in its name prior to January 1, 1999. However, a company using the prohibited language in its name shall conspicuously disclose in its service contracts or protection product guarantees the following statement: "This agreement is not an insurance contract."

(2) Every service contract provider or protection product guarantee provider shall conduct its business in its own legal name, unless the commissioner has approved the use of another name.

(3) A service contract provider or protection product guarantee provider or ~~(its)~~ their representatives shall not in ~~(its)~~ their service contracts or protection product guarantees or literature make, permit, or cause to be made any false or misleading statement, or deliberately omit any material statement that would be considered misleading if omitted.

(4) A person, such as a bank, savings and loan association, lending institution, manufacturer, or seller shall not require the purchase of a service contract or protection product as a condition of a loan or a condition for the sale of any property.

Sec. 10. RCW 48.110.090 and 1999 c 112 s 10 are each amended to read as follows:

(1) The service contract provider or protection product guarantee provider shall keep accurate accounts, books, and records concerning transactions regulated under this chapter.

(2) The service contract provider's or protection product guarantee provider's accounts, books, and records shall include the following:

(a) Copies of each type of service contract or protection product guarantees offered, issued, or sold;

(b) The name and address of each service contract holder or protection product guarantee holder, to the extent that the name and address have been furnished by the service contract holder or protection product guarantee holder;

(c) A list of the locations where the service contracts or protection products are marketed, sold, or offered for sale; and

(d) Written claim files that contain at least the dates, amounts, and descriptions of claims related to the service contracts or protection products.

(3) Except as provided in subsection (5) of this section, the service contract provider or protection product guarantee provider shall retain all records required to be maintained by subsection (1) of this section for at least six years after the specified coverage has expired.

(4) The records required under this chapter may be, but are not required to be, maintained on a computer disk or other recordkeeping technology. If the records are maintained in other than hard copy, the records shall be capable of duplication to legible hard copy.

(5) A service contract provider or protection product guarantee provider discontinuing business in this state shall maintain its records until it furnishes the commissioner satisfactory proof that it has discharged all obligations to service contract holders or protection product guarantee holders in this state.

Sec. 11. RCW 48.110.100 and 1999 c 112 s 11 are each amended to read as follows:

As applicable, an insurer that issued a reimbursement insurance policy shall not terminate the policy until a notice of termination in accordance with RCW 48.18.290 has been given to the service contract provider or protection product guarantee provider and has been delivered to the commissioner. The termination of a reimbursement insurance policy does not reduce the issuer's responsibility for service contracts issued by service contract providers or protection product guaranteees issued by protection product guarantee providers prior to the effective date of the termination.

Sec. 12. RCW 48.110.110 and 1999 c 112 s 12 are each amended to read as follows:

(1) Service contract providers or protection product guarantee providers are considered to be the agent of the insurer which issued the reimbursement insurance policy for purposes of obligating the insurer to service contract holders or protection product guarantee holders in accordance with the service contract or protection product guarantee holders and this chapter. Payment of the provider fee by the consumer to the service contract seller, service contract provider, or administrator or payment of consideration for the protection product to the protection product seller constitutes payment by the consumer to the service contract provider or protection product guarantee provider and to the insurer which issued the reimbursement insurance policy. In cases where a service contract provider or protection product guarantee provider is acting as an administrator and enlists other service contract providers or protection product guarantee providers, the service contract provider or protection product guarantee provider acting as the administrator shall notify the insurer of the existence and identities of the other service contract providers or protection product guarantee providers.

(2) (~~Chapter 112, Laws of 1999~~) This chapter does not prevent or limit the right of an insurer which issued a reimbursement insurance policy to seek indemnification or subrogation against a service contract provider or protection product guarantee provider if the issuer pays or is obligated to pay the service contract holder or protection product guarantee holder sums that the service contract provider or protection product guarantee provider was obligated to pay under the

provisions of the service contract or protection product guarantee.

Sec. 13. RCW 48.110.120 and 1999 c 112 s 13 are each amended to read as follows:

(1) The commissioner may conduct investigations of service contract providers or protection product guarantee providers, administrators, service contract sellers or protection product sellers, insurers, and other persons to enforce this chapter and protect service contract holders or protection product guarantee holders in this state. Upon request of the commissioner, the service contract provider or protection product guarantee provider shall make all accounts, books, and records concerning service contracts or protection products offered, issued, or sold by the service contract provider or protection product guarantee provider available to the commissioner which are necessary to enable the commissioner to determine compliance or noncompliance with this chapter.

(2) The commissioner may take actions under RCW 48.02.080 or 48.04.050 which are necessary or appropriate to enforce this chapter and the commissioner's rules and orders, and to protect service contract holders or protection product guarantee holders in this state.

Sec. 14. RCW 48.110.130 and 1999 c 112 s 14 are each amended to read as follows:

(1) The commissioner may, subject to chapter 48.04 RCW, deny, suspend, or revoke the registration of a service contract provider or protection product guarantee provider if the commissioner finds that the service contract provider or protection product guarantee provider:

(a) Has violated this chapter or the commissioner's rules and orders;

(b) Has refused to be investigated or to produce its accounts, records, and files for investigation, or if any of its officers have refused to give information with respect to its affairs or refused to perform any other legal obligation as to an investigation, when required by the commissioner;

(c) Has, without just cause, refused to pay proper claims or perform services arising under its contracts or has, without just cause, caused service contract holders or protection product guarantee holders to accept less than the amount due them or caused service contract holders or protection product guarantee holders to employ attorneys or bring suit against the service contract provider or protection product guarantee provider to secure full payment or settlement of claims;

(d) Is affiliated with or under the same general management or interlocking directorate or ownership as another service contract provider or protection product guarantee provider which unlawfully transacts business in this state without having a registration;

(e) At any time fails to meet any qualification for which issuance of the registration could have been refused had such failure then existed and been known to the commissioner;

(f) Has been convicted of, or has entered a plea of guilty or nolo contendere to, a felony;

(g) Is under suspension or revocation in another state with respect to its service contract business or protection product business;

(h) Has made a material misstatement in its application for registration;

(i) Has obtained or attempted to obtain a registration through misrepresentation or fraud;

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

(j) Has, in the transaction of business under its registration, used fraudulent, coercive, or dishonest practices; ((or))

(k) Has failed to pay any judgment rendered against it in this state regarding a service contract or protection product guarantee within sixty days after the judgment has become final; or

(l) Has failed to respond promptly to any inquiry from the insurance commissioner relative to service contract or protection product business. A lack of response within fifteen business days from receipt of an inquiry is untimely. A response must be in writing, unless otherwise indicated in the inquiry.

(2) The commissioner may, without advance notice or hearing thereon, immediately suspend the registration of a service contract provider or protection product guarantee provider if the commissioner finds that any of the following circumstances exist:

(a) The provider is insolvent;

(b) A proceeding for receivership, conservatorship, rehabilitation, or other delinquency proceeding regarding the service contract provider or protection product guarantee provider has been commenced in any state; or

(c) The financial condition or business practices of the service contract provider or protection product guarantee provider otherwise pose an imminent threat to the public health, safety, or welfare of the residents of this state.

(3) If the commissioner finds that grounds exist for the suspension or revocation of a registration issued under this chapter, the commissioner may, in lieu of suspension or revocation, impose a fine upon the service contract provider or protection product guarantee provider in an amount not more than two thousand dollars per violation.

Sec. 15. RCW 48.110.140 and 1999 c 112 s 15 are each amended to read as follows:

The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Violations of this chapter are not reasonable in relation to the development and preservation of business. A violation of this chapter is an unfair or deceptive act or practice in the conduct of trade or commerce and an unfair method of competition, as specifically contemplated by RCW 19.86.020, and is a violation of the consumer protection act, chapter 19.86 RCW. Any service contract holder or protection product guarantee holder injured as a result of a violation of a provision of this chapter shall be entitled to maintain an action pursuant to chapter 19.86 RCW against the service contract provider or protection product guarantee provider and the insurer issuing the applicable service contract or protection product guarantee reimbursement ((insurance)) insurance policy and shall be entitled to all of the rights and remedies afforded by that chapter.

Sec. 16. RCW 48.110.900 and 1999 c 112 s 17 are each amended to read as follows:

This chapter applies to all service contracts, other than on motor vehicles, sold or offered for sale ninety or more days after July 25, 1999. This chapter applies to all service contracts on motor vehicles and protection products sold or offered for sale after September 30, 2006.

NEW SECTION. Sec. 17. A new section is added to chapter 48.110 RCW to read as follows:

(1) This section applies to protection product guarantee providers.

(2) A person shall not act as, or offer to act as, or hold himself or herself out to be a protection product guarantee provider in this state, nor may a protection product be sold to a consumer in this state, unless the protection product guarantee provider has:

(a) A valid registration as a protection product guarantee provider issued by the commissioner; and

(b) Either demonstrated its financial responsibility or assured the faithful performance of the protection product guarantee provider's obligations to its protection product guarantee holders by insuring all protection product guarantees under a reimbursement insurance policy issued by an insurer holding a certificate of authority from the commissioner or a risk retention group, as defined in 15 U.S.C. Sec. 3901(a)(4), as long as that risk retention group is in full compliance with the federal liability risk retention act of 1986 (15 U.S.C. Sec. 3901 et seq.), is in good standing in its domiciliary jurisdiction, and properly registered with the commissioner under chapter 48.92 RCW. The insurance required by this subsection must meet the following requirements:

(i) The insurer or risk retention group must, at the time the policy is filed with the commissioner, and continuously thereafter, maintain surplus as to policyholders and paid-in capital of at least fifteen million dollars and annually file audited financial statements with the commissioner; and

(ii) The commissioner may authorize an insurer or risk retention group that has surplus as to policyholders and paid-in capital of less than fifteen million dollars, but at least equal to ten million dollars, to issue the insurance required by this subsection if the insurer or risk retention group demonstrates to the satisfaction of the commissioner that the company maintains a ratio of direct written premiums, wherever written, to surplus as to policyholders and paid-in capital of not more than three to one.

(3) Applicants to be a protection product guarantee provider shall make an application to the commissioner upon a form to be furnished by the commissioner. The application shall include or be accompanied by the following information and documents:

(a) The names of the protection product guarantee provider's executive officer or officers directly responsible for the protection product guarantee provider's protection product guarantee business and their biographical affidavits on a form prescribed by the commissioner;

(b) The name, address, and telephone number of any administrators designated by the protection product guarantee provider to be responsible for the administration of protection product guarantees in this state;

(c) A copy of the protection product guarantee reimbursement insurance policy or policies;

(d) A copy of each protection product guarantee the protection product guarantee provider proposes to use in this state;

(e) Any other pertinent information required by the commissioner; and

(f) A nonrefundable application fee of two hundred fifty dollars.

(4) The applicant shall appoint the commissioner as its attorney to receive service of legal process in any action, suit, or proceeding in any court. This appointment is irrevocable and shall bind the protection product guarantee provider or any successor in interest, shall remain in effect as long as there is in

force in this state any protection product guarantee or any obligation arising therefrom related to residents of this state, and shall be processed in accordance with RCW 48.05.210.

(5) The commissioner may refuse to issue a registration if the commissioner determines that the protection product guarantee provider, or any individual responsible for the conduct of the affairs of the protection product guarantee provider under subsection (3)(a) of this section, is not competent, trustworthy, financially responsible, or has had a license as a protection product guarantee provider or similar license denied or revoked for cause by any state.

(6) A registration issued under this section is valid, unless surrendered, suspended, or revoked by the commissioner, or not renewed for so long as the protection product guarantee provider continues in business in this state and remains in compliance with this chapter. A registration is subject to renewal annually on the first day of July upon application of the protection product guarantee provider and payment of a fee of two hundred fifty dollars. If not so renewed, the registration expires on the June 30th next preceding.

(7) A protection product guarantee provider shall keep current the information required to be disclosed in its registration under this section by reporting all material changes or additions within thirty days after the end of the month in which the change or addition occurs.

NEW SECTION. Sec. 18. A new section is added to chapter 48.110 RCW to read as follows:

(1) This section applies to service contracts on motor vehicles.

(2) Service contracts shall not be issued, sold, or offered for sale in this state or sold to consumers in this state unless:

(a) The service contract provider has either demonstrated its financial responsibility or assured the faithful performance of the service contract provider's obligations to its service contract holders by insuring all service contracts under a reimbursement insurance policy issued by an insurer holding a certificate of authority from the commissioner or a risk retention group, as defined in 15 U.S.C. Sec. 3901(a)(4), as long as that risk retention group is in full compliance with the federal liability risk retention act of 1986 (15 U.S.C. Sec. 3901 et seq.), is in good standing in its domiciliary jurisdiction, and properly registered with the commissioner under chapter 48.92 RCW. The insurance required by this subsection must meet the following requirements:

(i) The insurer or risk retention group must, at the time the policy is filed with the commissioner, and continuously thereafter, maintain surplus as to policyholders and paid-in capital of at least fifteen million dollars and annually file audited financial statements with the commissioner; and

(ii) The commissioner may authorize an insurer or risk retention group that has surplus as to policyholders and paid-in capital of less than fifteen million dollars, but at least equal to ten million dollars, to issue the insurance required by this subsection if the insurer or risk retention group demonstrates to the satisfaction of the commissioner that the company maintains a ratio of direct written premiums, wherever written, to surplus as to policyholders and paid-in capital of not more than three to one;

(b) The service contract conspicuously states that the obligations of the provider to the service contract holder are guaranteed under the reimbursement insurance policy, the name and address of the issuer of the reimbursement insurance policy,

the applicable policy number, and the means by which a service contract holder may file a claim under the policy;

(c) The service contract conspicuously and unambiguously states the name and address of the service contract provider and identifies any administrator if different from the service contract provider, the service contract seller, and the service contract holder. The identity of the service contract seller and the service contract holder are not required to be preprinted on the service contract and may be added to the service contract at the time of sale;

(d) The service contract states the purchase price of the service contract and the terms under which the service contract is sold. The purchase price is not required to be preprinted on the service contract and may be negotiated at the time of sale;

(e) The contract contains a conspicuous statement that has been initialed by the service contract holder and discloses:

(i) Any material conditions that the service contract holder must meet to maintain coverage under the contract including, but not limited to, any maintenance schedule to which the service contract holder must adhere, any requirement placed on the service contract holder for documenting repair or maintenance work, any duty to protect against any further damage, and any procedure to which the service contract holder must adhere for filing claims;

(ii) The work and parts covered by the contract;

(iii) Any time or mileage limitations;

(iv) That the implied warranty of merchantability on the motor vehicle is not waived if the contract has been purchased within ninety days of the purchase date of the motor vehicle from a provider or service contract seller who also sold the motor vehicle covered by the contract;

(v) Any exclusions of coverage; and

(vi) The contract holder's right to return the contract for a refund, which right can be no more restrictive than provided for in subsection (4) of this section;

(f) The service contract states the procedure to obtain service or to file a claim, including but not limited to the procedures for obtaining prior approval for repair work, the toll-free telephone number if prior approval is necessary for service, and the procedure for obtaining emergency repairs performed outside of normal business hours or for obtaining twenty-four-hour telephone assistance;

(g) The service contract states the existence of any deductible amount, if applicable;

(h) The service contract states any restrictions governing the transferability of the service contract, if applicable; and

(i) The service contract states whether or not the service contract provides for or excludes consequential damages or preexisting conditions.

(3) Service contracts shall not contain a provision which requires that any civil action brought in connection with the service contract must be brought in the courts of a jurisdiction other than this state. Service contracts that authorize binding arbitration to resolve claims or disputes must allow for arbitration proceedings to be held at a location in closest proximity to the service contract holder's permanent residence.

(4)(a) At a minimum, every provider shall permit the service contract holder to return the contract within thirty days of its purchase if no claim has been made under the contract, and shall refund to the holder the full purchase price of the contract unless the service contract holder returns the contract ten or more days

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

after its purchase, in which case the provider may charge a cancellation fee not exceeding twenty-five dollars.

(b) If no claim has been made and a contract holder returns the contract after thirty days, the provider shall refund the purchase price pro rata based upon either elapsed time or mileage computed from the date the contract was purchased and the mileage on that date, less a cancellation fee not exceeding twenty-five dollars.

(c) A ten percent penalty shall be added to any refund that is not paid within thirty days of return of the contract to the provider.

(d) If a contract holder returns the contract under this subsection, the contract is void from the beginning and the parties are in the same position as if no contract had been issued.

(e) If a service contract holder returns the contract in accordance with this section, the insurer issuing the reimbursement insurance policy covering the contract shall refund to the provider the full premium by the provider for the contract if canceled within thirty days or a pro rata refund if canceled after thirty days.

(5) A service contract provider shall not deny a claim for coverage based upon the service contract holder's failure to properly maintain the vehicle, unless the failure to maintain the vehicle involved the failed part or parts.

(6) A contract provider has only sixty days from the date of the sale of the service contract to the holder to determine whether or not the vehicle qualifies under the provider's program for that vehicle. After sixty days the vehicle qualifies for the service contract that was issued and the service contract provider may not cancel the contract and is fully obligated under the terms of the contract sold to the service contract holder.

NEW SECTION. Sec. 19. A new section is added to chapter 48.110 RCW to read as follows:

(1) Except for service contract providers or protection product guarantee providers, persons marketing, selling, or offering to sell service contracts or protection products for providers are exempt from the registration requirements of RCW 48.110.030.

(2) The marketing, sale, offering for sale, issuance, making, proposing to make, and administration of service contracts or protection products by service contract providers or protection product guarantee providers and related service contract or protection product sellers, administrators, and other persons complying with this chapter are exempt from the other provisions of this title, except chapters 48.04 and 48.30 RCW and as otherwise provided in this chapter.

NEW SECTION. Sec. 20. A new section is added to chapter 48.110 RCW to read as follows:

(1) If the service contract provider or protection product guarantee provider is using reimbursement insurance policy to satisfy the requirements of RCW 48.110.050(2)(a) or section 17(2)(b) or 18(2)(a) of this act, then the reimbursement insurance policy shall be filed with and approved by the commissioner in accordance with and pursuant to the requirements of chapter 48.18 RCW.

(2) All service contracts forms covering motor vehicles must be filed with and approved by the commissioner prior to the service contract forms being used, issued, delivered, sold, or marketed in this state or to residents of this state.

(3) All service contracts forms covering motor vehicles being used, issued, delivered, sold, or marketed in this state or to residents of this state by motor vehicle manufacturers or import distributors or wholly owned subsidiaries thereof must be filed with the commissioner for approval within sixty days after the motor vehicle manufacturer or import distributor or wholly owned subsidiary thereof begins using the service contracts forms.

(4) The commissioner shall disapprove any motor vehicle service contract form if:

(a) The form is in any respect in violation of, or does not comply with, this chapter or any applicable order or regulation of the commissioner issued under this chapter;

(b) The form contains or incorporates by reference any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions;

(c) The form has any title, heading, or other indication of its provisions that is misleading; or

(d) The purchase of the contract is being solicited by deceptive advertising.

NEW SECTION. Sec. 21. (1) RCW 48.110.030 (2) (a) and (b), (3), and (4), 48.110.040, 48.110.060, 48.110.100, 48.110.110, section 18 (2)(a) and (b) and (4)(e) of this act, and section 20 (1) and (2) of this act do not apply to motor vehicle service contracts issued by a motor vehicle manufacturer or import distributor covering vehicles manufactured or imported by the motor vehicle manufacturer or import distributor.

(2) RCW 48.110.030(2)(c) does not apply to a publicly traded motor vehicle manufacturer or import distributor.

(3) RCW 48.110.030 (2) (a) through (c), (3), and (4), 48.110.040, and section 20(2) of this act do not apply to wholly owned subsidiaries of motor vehicle manufacturers or import distributors.

(4) The adoption of this act does not imply that a vehicle protection product warranty was insurance prior to October 1, 2006.

NEW SECTION. Sec. 22. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 23. The following acts or parts of acts are each repealed:

- (1) RCW 48.96.005 (Purpose) and 1990 c 239 s 2;
- (2) RCW 48.96.010 (Definitions) and 1987 c 99 s 1;
- (3) RCW 48.96.020 (Reimbursement policy required for sale of service contract) and 1987 c 99 s 2;
- (4) RCW 48.96.025 (Reimbursement policy--Insurer's responsibility) and 1990 c 239 s 3;
- (5) RCW 48.96.030 (Reimbursement policy--Required provisions) and 1990 c 239 s 6 & 1987 c 99 s 3;
- (6) RCW 48.96.040 (Service contract--Required statements) and 1990 c 239 s 7 & 1987 c 99 s 4;
- (7) RCW 48.96.045 (Service contract--Notice to holder) and 1990 c 239 s 4;
- (8) RCW 48.96.047 (Service contract--Holder's right to return) and 1990 c 239 s 5;
- (9) RCW 48.96.050 (Service contracts--Excluded parties) and 1990 c 239 s 8 & 1987 c 99 s 5;
- (10) RCW 48.96.060 (Noncompliance as unfair competition, trade practice--Remedies) and 1990 c 239 s 9 & 1987 c 99 s 6;
- (11) RCW 48.96.900 (Application of chapter--Date) and 1987 c 99 s 7; and

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

(12) RCW 48.96.901 (Effective date--1990 c 239 §§ 2-10) and 1990 c 239 s 11.

NEW SECTION. Sec. 24. This act takes effect October 1, 2006."

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

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

MOTION

On motion of Senator Schoesler, Senator Honeyford was excused.

MOTION

On motion of Senator Eide, further consideration of Substitute House Bill No. 2553 was deferred and the bill held its place on the second reading calendar.

SECOND READING

HOUSE BILL NO. 2606, by Representatives Curtis, Takko, Orcutt, McDonald, Grant, Hinkle, Clements, Moeller, Chandler, Wallace, Tom, Kretz, Nixon, Blake, Kessler, Rodne, Haigh, B. Sullivan and Morrell

Allowing volunteer fire fighter personnel to hold elective or appointed office.

The measure was read the second time.

MOTION

Senator Zarelli 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:

"NEW SECTION. Sec. 1. A new section is added to chapter 35.21 RCW to read as follows:

(1) Except as otherwise prohibited by law, a volunteer member of any fire department who does not serve as fire chief for the department may be:

(a) A candidate for elective public office and serve in that public office if elected; or

(b) Appointed to any public office and serve in that public office if appointed.

(2) For purposes of this section, "volunteer" means a member of any fire department who performs voluntarily any assigned or authorized duties on behalf of or at the direction of the fire department without receiving compensation or consideration for performing such duties.

(3) For purposes of this section, "compensation" and "consideration" do not include any benefits the volunteer may have accrued or is accruing under chapter 41.24 RCW.

NEW SECTION. Sec. 2. A new section is added to chapter 52.30 RCW to read as follows:

(1) Except as otherwise prohibited by law, a volunteer member of any fire protection district who does not serve as fire chief for the district may be:

(a) A candidate for elective public office and serve in that public office if elected; or

(b) Appointed to any public office and serve in that public office if appointed.

(2) For purposes of this section, "volunteer" means a member of any fire protection district who performs voluntarily any assigned or authorized duties on behalf of or at the direction of the fire protection district without receiving compensation or consideration for performing such duties.

(3) For purposes of this section, "compensation" and "consideration" do not include any benefits the volunteer may have accrued or is accruing under chapter 41.24 RCW."

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

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Government Operations & Elections to House Bill No. 2606.

The motion by Senator Zarelli 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 "office;" strike the remainder of the title and insert "adding a new section to chapter 35.21 RCW; and adding a new section to chapter 52.30 RCW."

MOTION

On motion of Senator Zarelli, the rules were suspended, House Bill No. 2606 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 Zarelli, Berkey and Benton spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 2606 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2606 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Brandland, Hargrove, Regala and Thibaudeau - 4

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

HOUSE BILL NO. 2606 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

the second reading considered the third and the bill was placed on final passage.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2876, by Representatives Ericksen, Wood, Dunn, Armstrong and Ericks

Clarifying procedures for sound and video recordings by law enforcement officers.

The measure was read the second time.

MOTION

On motion of Senator Weinstein, the rules were suspended, Substitute House Bill No. 2876 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.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2876.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2876 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 2; Excused, 4.

Voting yea: Senators Benson, Benton, Berkey, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Roach, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 43

Absent: Senators Brown and Rockefeller - 2

Excused: Senators Brandland, Hargrove, Regala and Thibaudeau - 4

SUBSTITUTE HOUSE BILL NO. 2876, 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. 2394, by House Committee on Children & Family Services (originally sponsored by Representatives Dickerson, Morrell, Appleton, Moeller, Lantz, Hasegawa, Williams, Darneille, Santos, Haler, Wallace, Walsh, McIntire and Simpson)

Including financial literacy in work activity provisions.

The measure was read the second time.

MOTION

On motion of Senator Regala, the rules were suspended, Substitute House Bill No. 2394 was advanced to third reading,

MOTION

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

Senator Regala spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2394.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2394 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Brandland, Hewitt, Parlette and Thibaudeau - 4

SUBSTITUTE HOUSE BILL NO. 2394, 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. 2857, by Representatives Kenney, Sells, Cox, Rodne and Kessler

Revising terms of appointment of student regents and trustees.

The measure was read the second time.

MOTION

On motion of Senator McAuliffe, the rules were suspended, House Bill No. 2857 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 2857.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2857 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Benson, Benton, Berkey, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Pflug, Poulsen, Prentice,

FIFTY-THIRD DAY, MARCH 2, 2006

Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Absent: Senator Brown - 1

Excused: Senators Brandland, Hewitt and Parlette - 3

HOUSE BILL NO. 2857, 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. 2951, by House Committee on Judiciary (originally sponsored by Representatives Campbell, Morrell, McCune and Green)

Creating a firearms training certificate program for retired law enforcement officers.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, Engrossed Substitute House Bill No. 2951 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.

MOTION

On motion of Senator Regala, Senator Brown was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2951.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2951 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

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

Absent: Senator Kohl-Welles - 1

Excused: Senators Brandland, Brown, Hewitt and Parlette - 4

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2951, 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. 1641, by Representatives Kretz, Blake, Ahern, Buri, Ericks, Serben, DeBolt, Schindler, Kristiansen, Condotta, Orcutt, Strow, Cox, Buck and Armstrong

2006 REGULAR SESSION

Decriminalizing vessel registration violations.

The measure was read the second time.

MOTION

On motion of Senator Jacobsen, the rules were suspended, House Bill No. 1641 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 1641.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1641 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 2; Excused, 4.

Voting yea: Senators Benson, Benton, Berkey, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, McAuliffe, McCaslin, Morton, Mulliken, Oke, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 43

Absent: Senators Deccio and Kohl-Welles - 2

Excused: Senators Brandland, Brown, Hewitt and Parlette - 4

HOUSE BILL NO. 1641, 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 Weinstein, Senators Kohl-Welles and Rockefeller were excused.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1080, by House Committee on Criminal Justice & Corrections (originally sponsored by Representatives McDonald, O'Brien and Morrell)

Protecting dependent persons.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9A.42.010 and 1997 c 392 s 508 are each amended to read as follows:

As used in this chapter:

(1) "Basic necessities of life" means food, water, shelter, clothing, and medically necessary health care, including but not limited to health-related treatment or activities, hygiene, oxygen, and medication.

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

(2)(a) "Bodily injury" means physical pain or injury, illness, or an impairment of physical condition;

(b) "Substantial bodily harm" means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily part or organ, or which causes a fracture of any bodily part;

(c) "Great bodily harm" means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily part or organ.

(3) "Child" means a person under eighteen years of age.

(4) "Dependent person" means a person who, because of physical or mental disability, or because of extreme advanced age, is dependent upon another person to provide the basic necessities of life. A resident of a nursing home, as defined in RCW 18.51.010, a resident of an adult family home, as defined in RCW 70.128.010, and a frail elder or vulnerable adult, as defined in RCW 74.34.020(~~(88)~~) (13), is presumed to be a dependent person for purposes of this chapter.

(5) "Employed" means hired by a dependent person, another person acting on behalf of a dependent person, or by an organization or governmental entity, to provide to a dependent person any of the basic necessities of life. A person may be "employed" regardless of whether the person is paid for the services or, if paid, regardless of who pays for the person's services.

(6) "Parent" has its ordinary meaning and also includes a guardian and the authorized agent of a parent or guardian.

(7) "Abandons" means leaving a child or other dependent person without the means or ability to obtain one or more of the basic necessities of life.

(8) "Good samaritan" means any individual or group of individuals who: (a) Is not related to the dependent person; (b) voluntarily provides assistance or services of any type to the dependent person; (c) is not paid, given gifts, or made a beneficiary of any assets valued at five hundred dollars or more, for any reason, by the dependent person, the dependent person's family, or the dependent person's estate; and (d) does not commit or attempt to commit any other crime against the dependent person or the dependent person's estate.

Sec. 2. RCW 9A.42.020 and 1997 c 392 s 510 are each amended to read as follows:

(1) A parent of a child, the person entrusted with the physical custody of a child or dependent person, a person who has assumed the responsibility to provide to a dependent person the basic necessities of life, or a person employed to provide to the child or dependent person the basic necessities of life is guilty of criminal mistreatment in the first degree if he or she recklessly, as defined in RCW 9A.08.010, causes great bodily harm to a child or dependent person by withholding any of the basic necessities of life.

(2) Criminal mistreatment in the first degree is a class B felony.

Sec. 3. RCW 9A.42.030 and 1997 c 392 s 511 are each amended to read as follows:

(1) A parent of a child, the person entrusted with the physical custody of a child or dependent person, a person who has assumed the responsibility to provide to a dependent person the basic necessities of life, or a person employed to provide to the child or dependent person the basic necessities of life is guilty of criminal mistreatment in the second degree if he or she

recklessly, as defined in RCW 9A.08.010, either (a) creates an imminent and substantial risk of death or great bodily harm, or (b) causes substantial bodily harm by withholding any of the basic necessities of life.

(2) Criminal mistreatment in the second degree is a class C felony.

Sec. 4. RCW 9A.42.035 and 2000 c 76 s 1 are each amended to read as follows:

(1) A person is guilty of the crime of criminal mistreatment in the third degree if the person is the parent of a child, is a person entrusted with the physical custody of a child or other dependent person, is a person who has assumed the responsibility to provide to a dependent person the basic necessities of life, or is a person employed to provide to the child or dependent person the basic necessities of life, and either:

(a) With criminal negligence, creates an imminent and substantial risk of substantial bodily harm to a child or dependent person by withholding any of the basic necessities of life; or

(b) With criminal negligence, causes substantial bodily harm to a child or dependent person by withholding any of the basic necessities of life.

(2) For purposes of this section, "a person who has assumed the responsibility to provide to a dependent person the basic necessities of life" means a person other than: (a) A government agency that regularly provides assistance or services to dependent persons, including but not limited to the department of social and health services; or (b) a good samaritan as defined in RCW 9A.42.010.

(3) Criminal mistreatment in the third degree is a gross misdemeanor.

Sec. 5. RCW 9A.42.037 and 2002 c 219 s 2 are each amended to read as follows:

(1) A person is guilty of the crime of criminal mistreatment in the fourth degree if the person is the parent of a child, is a person entrusted with the physical custody of a child or other dependent person, is a person who has assumed the responsibility to provide to a dependent person the basic necessities of life, or is a person employed to provide to the child or dependent person the basic necessities of life, and either:

(a) With criminal negligence, creates an imminent and substantial risk of bodily injury to a child or dependent person by withholding any of the basic necessities of life; or

(b) With criminal negligence, causes bodily injury or extreme emotional distress manifested by more than transient physical symptoms to a child or dependent person by withholding the basic necessities of life.

(2) For purposes of this section, "a person who has assumed the responsibility to provide to a dependent person the basic necessities of life" means a person other than: (a) A government agency that regularly provides assistance or services to dependent persons, including but not limited to the department of social and health services; or (b) a good samaritan as defined in RCW 9A.42.010.

(3) Criminal mistreatment in the fourth degree is a misdemeanor.

Sec. 6. RCW 9A.42.060 and 2002 c 331 s 3 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a person is guilty of the crime of abandonment of a dependent person in the first degree if:

(a) The person is the parent of a child, a person entrusted with the physical custody of a child or other dependent person, a person who has assumed the responsibility to provide to a dependent person the basic necessities of life, or a person employed to provide to the child or other dependent person any of the basic necessities of life;

(b) The person recklessly abandons the child or other dependent person; and

(c) As a result of being abandoned, the child or other dependent person suffers great bodily harm.

(2) A parent of a newborn who transfers the newborn to a qualified person at an appropriate location pursuant to RCW 13.34.360 is not subject to criminal liability under this section.

(3) Abandonment of a dependent person in the first degree is a class B felony.

Sec. 7. RCW 9A.42.070 and 2002 c 331 s 4 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a person is guilty of the crime of abandonment of a dependent person in the second degree if:

(a) The person is the parent of a child, a person entrusted with the physical custody of a child or other dependent person, a person who has assumed the responsibility to provide to a dependent person the basic necessities of life, or a person employed to provide to the child or other dependent person any of the basic necessities of life; and

(b) The person recklessly abandons the child or other dependent person; and:

(i) As a result of being abandoned, the child or other dependent person suffers substantial bodily harm; or

(ii) Abandoning the child or other dependent person creates an imminent and substantial risk that the child or other dependent person will die or suffer great bodily harm.

(2) A parent of a newborn who transfers the newborn to a qualified person at an appropriate location pursuant to RCW 13.34.360 is not subject to criminal liability under this section.

(3) Abandonment of a dependent person in the second degree is a class C felony.

Sec. 8. RCW 9A.42.080 and 2002 c 331 s 5 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a person is guilty of the crime of abandonment of a dependent person in the third degree if:

(a) The person is the parent of a child, a person entrusted with the physical custody of a child or other dependent person, a person who has assumed the responsibility to provide to a dependent person the basic necessities of life, or a person employed to provide to the child or dependent person any of the basic necessities of life; and

(b) The person recklessly abandons the child or other dependent person; and:

(i) As a result of being abandoned, the child or other dependent person suffers bodily harm; or

(ii) Abandoning the child or other dependent person creates an imminent and substantial risk that the child or other person will suffer substantial bodily harm.

(2) A parent of a newborn who transfers the newborn to a qualified person at an appropriate location pursuant to RCW 13.34.360 is not subject to criminal liability under this section.

(3) Abandonment of a dependent person in the third degree is a gross misdemeanor.

Sec. 9. RCW 9.94A.515 and 2005 c 458 s 2 and 2005 c 183 s 9 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055)
	Malicious explosion 1 (RCW 70.74.280(1))
	Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050)
	Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2))
	Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011)
	Assault of a Child 1 (RCW 9A.36.120)
	Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
	Rape 1 (RCW 9A.44.040)
	Rape of a Child 1 (RCW 9A.44.073)
	Trafficking 2 (RCW 9A.40.100(2))
XI	Manslaughter 1 (RCW 9A.32.060)
	Rape 2 (RCW 9A.44.050)
	Rape of a Child 2 (RCW 9A.44.076)
X	Child Molestation 1 (RCW 9A.44.083)
	Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
	Kidnapping 1 (RCW 9A.40.020)
	Leading Organized Crime (RCW 9A.82.060(1)(a))
	Malicious explosion 3 (RCW 70.74.280(3))
	Sexually Violent Predator Escape (RCW 9A.76.115)
IX	<u>Abandonment of Dependent Person 1</u> (RCW 9A.42.060)
	Assault of a Child 2 (RCW 9A.36.130)

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

	<u>Criminal Mistreatment 1 (RCW 9A.42.020)</u>	Malicious placement of an explosive 3 (RCW 70.74.270(3))
	Explosive devices prohibited (RCW 70.74.180)	Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)
	Hit and Run--Death (RCW 46.52.020(4)(a))	Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
	Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)	Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))
	Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))	Use of a Machine Gun in Commission of a Felony (RCW 9.41.225)
	Malicious placement of an explosive 2 (RCW 70.74.270(2))	Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
	Robbery 1 (RCW 9A.56.200)	VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
	Sexual Exploitation (RCW 9.68A.040)	Bribery (RCW 9A.68.010)
	Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)	Incest 1 (RCW 9A.64.020(1))
VIII	Arson 1 (RCW 9A.48.020)	Intimidating a Judge (RCW 9A.72.160)
	Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)	Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
	Manslaughter 2 (RCW 9A.32.070)	Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
	Promoting Prostitution 1 (RCW 9A.88.070)	Rape of a Child 3 (RCW 9A.44.079)
	Theft of Ammonia (RCW 69.55.010)	Theft of a Firearm (RCW 9A.56.300)
	Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)	Unlawful Storage of Ammonia (RCW 69.55.020)
VII	Burglary 1 (RCW 9A.52.020)	V ((Abandonment of dependent person 1 (RCW 9A.42.060)))
	Child Molestation 2 (RCW 9A.44.086)	<u>Abandonment of Dependent Person 2 (RCW 9A.42.070)</u>
	Civil Disorder Training (RCW 9A.48.120)	Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
	Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)	Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
	Drive-by Shooting (RCW 9A.36.045)	Child Molestation 3 (RCW 9A.44.089)
	Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)	((Criminal Mistreatment 1 (RCW 9A.42.020)))
	Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1)(b) and (c))	<u>Criminal Mistreatment 2 (RCW 9A.42.030)</u>
	Introducing Contraband 1 (RCW 9A.76.140)	Custodial Sexual Misconduct 1 (RCW 9A.44.160)

Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145)	Hit and Run--Injury (RCW 46.52.020(4)(b))
Extortion 1 (RCW 9A.56.120)	Hit and Run with Vessel--Injury Accident (RCW 79A.60.200(3))
Extortionate Extension of Credit (RCW 9A.82.020)	Identity Theft 1 (RCW 9.35.020(2))
Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)	Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)
Incest 2 (RCW 9A.64.020(2))	Influencing Outcome of Sporting Event (RCW 9A.82.070)
Kidnapping 2 (RCW 9A.40.030)	Malicious Harassment (RCW 9A.36.080)
Perjury 1 (RCW 9A.72.020)	Residential Burglary (RCW 9A.52.025)
Persistent prison misbehavior (RCW 9.94.070)	Robbery 2 (RCW 9A.56.210)
Possession of a Stolen Firearm (RCW 9A.56.310)	Theft of Livestock 1 (RCW 9A.56.080)
Rape 3 (RCW 9A.44.060)	Threats to Bomb (RCW 9.61.160)
Rendering Criminal Assistance 1 (RCW 9A.76.070)	Trafficking in Stolen Property 1 (RCW 9A.82.050)
Sexual Misconduct with a Minor 1 (RCW 9A.44.093)	Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))
Sexually Violating Human Remains (RCW 9A.44.105)	Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))
Stalking (RCW 9A.46.110)	Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))
Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)	Unlawful transaction of insurance business (RCW 48.15.023(3))
IV Arson 2 (RCW 9A.48.030)	Unlicensed practice as an insurance professional (RCW 48.17.063(3))
Assault 2 (RCW 9A.36.021)	Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))	Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)
Assault by Watercraft (RCW 79A.60.060)	Willful Failure to Return from Furlough (RCW 72.66.060)
Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)	III ((Abandonment of dependent person 2 (RCW 9A.42.070)))
Cheating 1 (RCW 9.46.1961)	Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))
Commercial Bribery (RCW 9A.68.060)	Assault of a Child 3 (RCW 9A.36.140)
Counterfeiting (RCW 9.16.035(4))	
Endangerment with a Controlled Substance (RCW 9A.42.100)	
Escape 1 (RCW 9A.76.110)	

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))	Unlawful Imprisonment (RCW 9A.40.040)
Burglary 2 (RCW 9A.52.030)	Unlawful possession of firearm in the second degree (RCW 9.41.040(2))
Communication with a Minor for Immoral Purposes (RCW 9.68A.090)	Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
Criminal Gang Intimidation (RCW 9A.46.120)	Willful Failure to Return from Work Release (RCW 72.65.070)
((Criminal Mistreatment 2 (RCW 9A.42.030)))	
Custodial Assault (RCW 9A.36.100)	II Computer Trespass 1 (RCW 9A.52.110)
Cyberstalking (subsequent conviction or threat of death) (RCW 9.61.260(3))	Counterfeiting (RCW 9.16.035(3))
Escape 2 (RCW 9A.76.120)	Escape from Community Custody (RCW 72.09.310)
Extortion 2 (RCW 9A.56.130)	Health Care False Claims (RCW 48.80.030)
Harassment (RCW 9A.46.020)	Identity Theft 2 (RCW 9.35.020(3))
Intimidating a Public Servant (RCW 9A.76.180)	Improperly Obtaining Financial Information (RCW 9.35.010)
Introducing Contraband 2 (RCW 9A.76.150)	Malicious Mischief 1 (RCW 9A.48.070)
Malicious Injury to Railroad Property (RCW 81.60.070)	Possession of Stolen Property 1 (RCW 9A.56.150)
Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)	Theft 1 (RCW 9A.56.030)
Patronizing a Juvenile Prostitute (RCW 9.68A.100)	Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(5)(a))
Perjury 2 (RCW 9A.72.030)	Trafficking in Insurance Claims (RCW 48.30A.015)
Possession of Incendiary Device (RCW 9.40.120)	Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))
Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW 9.41.190)	Unlawful Practice of Law (RCW 2.48.180)
Promoting Prostitution 2 (RCW 9A.88.080)	Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
Securities Act violation (RCW 21.20.400)	I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
Tampering with a Witness (RCW 9A.72.120)	False Verification for Welfare (RCW 74.08.055)
Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))	Forgery (RCW 9A.60.020)
Theft of Livestock 2 (RCW 9A.56.083)	Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)
Trafficking in Stolen Property 2 (RCW 9A.82.055)	Malicious Mischief 2 (RCW 9A.48.080)

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

Mineral Trespass (RCW 78.44.330)

MOTION

Possession of Stolen Property 2 (RCW 9A.56.160)

On motion of Senator Weinstein, Senator Haugen was excused.

Reckless Burning 1 (RCW 9A.48.040)

MOTION

Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)

On motion of Senator Kline, the rules were suspended, Engrossed Substitute House Bill No. 1080 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Theft 2 (RCW 9A.56.040)

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

Theft of Rental, Leased, or Lease-purchased Property (valued at two hundred fifty dollars or more but less than one thousand five hundred dollars) (RCW 9A.56.096(5)(b))

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1080 as amended by the Senate.

Transaction of insurance business beyond the scope of licensure (RCW 48.17.063(4))

ROLL CALL

Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1080 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Unlawful Possession of Fictitious Identification (RCW 9A.56.320)

Voting yea: Senators Benson, Benton, Berkey, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, McAuliffe, McCaslin, Morton, Mulliken, Oke, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 42

Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)

Excused: Senators Brandland, Brown, Haugen, Hewitt, Kohl-Welles, Parlette and Rockefeller - 7

Unlawful Possession of Payment Instruments (RCW 9A.56.320)

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1080 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.

Unlawful Possession of a Personal Identification Device (RCW 9A.56.320)

MOTION

Unlawful Production of Payment Instruments (RCW 9A.56.320)

On motion of Senator McCaslin, Senator Oke was excused.

Unlawful Trafficking in Food Stamps (RCW 9.91.142)

MOTION

Unlawful Use of Food Stamps (RCW 9.91.144)

On motion of Senator Schoesler, Senator Johnson was excused.

Vehicle Prowl 1 (RCW 9A.52.095)"

SECOND READING

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

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary to Engrossed Substitute House Bill No. 1080.

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

MOTION

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

On page 1, line 2 of the title, after "person;" strike the remainder of title and insert "amending RCW 9A.42.010, 9A.42.020, 9A.42.030, 9A.42.035, 9A.42.037, 9A.42.060, 9A.42.070, and 9A.42.080; reenacting and amending RCW 9.94A.515; and prescribing penalties."

The measure was read the second time.

MOTION

On motion of Senator Fraser, the rules were suspended, House Bill No. 2690 was advanced to third reading, the second

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

reading considered the third and the bill was placed on final passage.

Senator Fraser spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 2690.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2690 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 0; Absent, 1; Excused, 9.

Voting yea: Senators Benson, Benton, Berkey, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Honeyford, Jacobsen, Kastama, Keiser, Kline, McAuliffe, McCaslin, Morton, Mulliken, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 39

Absent: Senator Hargrove - 1

Excused: Senators Brandland, Brown, Haugen, Hewitt, Johnson, Kohl-Welles, Oke, Parlette and Rockefeller - 9

HOUSE BILL NO. 2690, 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. 2932, by Representatives Darneille, Curtis, Simpson, Conway, Hinkle, Williams, Ericks, Sells, Rodne, McDonald, Kilmer and Green

Establishing a catastrophic disability allowance under the law enforcement officers' and fire fighters' retirement system, plan 2.

The measure was read the second time.

MOTION

On motion of Senator Fraser, the rules were suspended, House Bill No. 2932 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 Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 2932.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2932 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 0; Absent, 1; Excused, 8.

Voting yea: Senators Benson, Berkey, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Honeyford, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 40

Absent: Senator Benton - 1

Excused: Senators Brandland, Brown, Haugen, Hewitt, Johnson, Oke, Parlette and Rockefeller - 8

HOUSE BILL NO. 2932, 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, Senator Hargrove was excused.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 3128, by Representatives Kenney, Hankins, Conway, Chandler, Wood, Condotta, Newhouse and Springer

Regulating the sale of wine by a society or organization.

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 3128 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Honeyford spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 3128.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3128 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Benson, Benton, Berkey, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 42

Excused: Senators Brandland, Brown, Hargrove, Haugen, Oke, Parlette and Rockefeller - 7

SUBSTITUTE HOUSE BILL NO. 3128, 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. 3192, by Representatives B. Sullivan, Ericks and Sells

Authorizing a contract extension for reimbursement by property owners for street, road, and water or sewer projects.

The measure was read the second time.

MOTION

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

On motion of Senator Kastama, the rules were suspended, Engrossed House Bill No. 3192 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

POINT OF INQUIRY

Senator Finkbeiner: "Would the Senator from the Twenty--Fifth District yield to a question? Mr. Chair, is it your understanding that the notification provision in subsection 2(b) of sections one, two and three of Engrossed House Bill No. 3192 can be satisfied through publication of a notice in a local newspaper of record?"

Senator Kastama: "Yes, I agree. In fact those notifications can be satisfied through that procedure."

Senator Finkbeiner spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed House Bill No. 3192.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 3192 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Haugen, Oke, Parlette and Rockefeller - 4

ENGROSSED HOUSE BILL NO. 3192, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Schoesler, Senator Hewitt was excused.

SECOND READING

ENGROSSED HOUSE BILL NO. 3074, by Representatives Serben, Lantz, Haler, McCoy, Chase, Dunn, Green and Morrell

Concerning default judgments against service members.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, Engrossed House Bill No. 3074 was advanced to third reading,

the second reading considered the third and the bill was placed on final passage.

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

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed House Bill No. 3074.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 3074 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Haugen, Hewitt, Oke and Rockefeller - 4

ENGROSSED HOUSE BILL NO. 3074, 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. 1841, by House Committee on Commerce & Labor (originally sponsored by Representatives Wood, Kenney, Conway, Strow, Sells, Simpson, Hasegawa and Santos)

Revising provisions for electrical trainees.

The measure was read the second time.

MOTION

Senator Kohl-Welles moved that the following committee amendment by the Committee on Labor, Commerce, Research & Development be not adopted.

On page 2, line 19, after "July 1," strike "2006" and insert "2007"

The President Pro Tempore declared the question before the Senate to be the motion by Senator Kohl-Welles to not adopt the committee amendment by the Committee on Labor, Commerce, Research & Development to Substitute House Bill No. 1841.

The motion by Senator Kohl-Welles carried and the committee amendment was not adopted by voice vote.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 19.28.041 and 2002 c 249 s 2 are each amended to read as follows:

(1) It is unlawful for any person, firm, partnership, corporation, or other entity to advertise, offer to do work,

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

submit a bid, engage in, conduct, or carry on the business of installing or maintaining wires or equipment to convey electric current, or installing or maintaining equipment to be operated by electric current as it pertains to the electrical industry, without having an unrevoked, unsuspended, and unexpired electrical contractor license, issued by the department in accordance with this chapter. All electrical contractor licenses expire twenty-four calendar months following the day of their issue. The department may issue an electrical contractor license for a period of less than twenty-four months only for the purpose of equalizing the number of electrical contractor licenses that expire each month. Application for an electrical contractor license shall be made in writing to the department, accompanied by the required fee. The application shall state:

(a) The name and address of the applicant; in case of firms or partnerships, the names of the individuals composing the firm or partnership; in case of corporations, the names of the managing officials thereof;

(b) The location of the place of business of the applicant and the name under which the business is conducted;

(c) Employer social security number;

(d) Evidence of workers' compensation coverage for the applicant's employees working in Washington, as follows:

(i) The applicant's industrial insurance account number issued by the department;

(ii) The applicant's self-insurer number issued by the department; or

(iii) For applicants domiciled in a state or province of Canada subject to an agreement entered into under RCW 51.12.120(7), as permitted by the agreement, filing a certificate of coverage issued by the agency that administers the workers' compensation law in the applicant's state or province of domicile certifying that the applicant has secured the payment of compensation under the other state's or province's workers' compensation law;

(e) Employment security department number;

(f) State excise tax registration number;

(g) Unified business identifier (UBI) account number may be substituted for the information required by (d) of this subsection if the applicant will not employ employees in Washington, and by (e) and (f) of this subsection; and

(h) Whether a general or specialty electrical contractor license is sought and, if the latter, the type of specialty. Electrical contractor specialties include, but are not limited to: Residential, pump and irrigation, limited energy system, signs, nonresidential maintenance, restricted nonresidential maintenance, appliance repair, and a combination specialty. A general electrical contractor license shall grant to the holder the right to engage in, conduct, or carry on the business of installing or maintaining wires or equipment to carry electric current, and installing or maintaining equipment, or installing or maintaining material to fasten or insulate such wires or equipment to be operated by electric current, in the state of Washington. A specialty electrical contractor license shall grant to the holder a limited right to engage in, conduct, or carry on the business of installing or maintaining wires or equipment to carry electrical current, and installing or maintaining equipment; or installing or maintaining material to fasten or insulate such wires or equipment to be operated by electric current in the state of Washington as expressly allowed by the license.

(2) The department may verify the workers' compensation coverage information provided by the applicant under subsection (1)(d) of this section, including but not limited to information regarding the coverage of an individual employee of the applicant. If coverage is provided under the laws of another state, the department may notify the other state that the applicant is employing employees in Washington.

(3) The application for an electrical contractor license shall be accompanied by a bond in the sum of four thousand dollars with the state of Washington named as obligee in the bond, with good and sufficient surety, to be approved by the department.

The bond shall at all times be kept in full force and effect, and any cancellation or revocation thereof, or withdrawal of the surety therefrom, suspends the license issued to the principal until a new bond has been filed and approved as provided in this section. Upon approval of a bond, the department shall on the next business day deposit the fee accompanying the application in the electrical license fund and shall file the bond in the office. The department shall upon request furnish to any person, firm, partnership, corporation, or other entity a certified copy of the bond upon the payment of a fee that the department shall set by rule. The fee shall cover but not exceed the cost of furnishing the certified copy. The bond shall be conditioned that in any installation or maintenance of wires or equipment to convey electrical current, and equipment to be operated by electrical current, the principal will comply with the provisions of this chapter and with any electrical ordinance, building code, or regulation of a city or town adopted pursuant to RCW 19.28.010(3) that is in effect at the time of entering into a contract. The bond shall be conditioned further that the principal will pay for all labor, including employee benefits, and material furnished or used upon the work, taxes and contributions to the state of Washington, and all damages that may be sustained by any person, firm, partnership, corporation, or other entity due to a failure of the principal to make the installation or maintenance in accordance with this chapter or any applicable ordinance, building code, or regulation of a city or town adopted pursuant to RCW 19.28.010(3). In lieu of the surety bond required by this section the license applicant may file with the department a cash deposit or other negotiable security acceptable to the department. If the license applicant has filed a cash deposit, the department shall deposit the funds in a special trust savings account in a commercial bank, mutual savings bank, or savings and loan association and shall pay annually to the depositor the interest derived from the account.

(4) The department shall issue general or specialty electrical contractor licenses to applicants meeting all of the requirements of this chapter. The provisions of this chapter relating to the licensing of any person, firm, partnership, corporation, or other entity including the requirement of a bond with the state of Washington named as obligee therein and the collection of a fee therefor, are exclusive, and no political subdivision of the state of Washington may require or issue any licenses or bonds or charge any fee for the same or a similar purpose. No person, firm, partnership, corporation, or other entity holding more than one specialty contractor license under this chapter may be required to pay an annual fee for more than one such license or to post more than one four thousand dollar bond, equivalent cash deposit, or other negotiable security.

(5) To obtain a general or specialty electrical contractor license the applicant must designate an individual who currently possesses a valid master journeyman electrician's certificate of competency, master specialty electrician's certificate of competency in the specialty for which application has been made, or administrator's certificate as a general electrical contractor administrator or as a specialty electrical contractor administrator in the specialty for which application has been made.

(6) Administrator certificate specialties include but are not limited to: Residential, pump and irrigation, limited energy system, signs, nonresidential maintenance, restricted nonresidential maintenance, appliance repair, and combination specialty. To obtain an administrator's certificate an individual must pass an examination as set forth in RCW 19.28.051 unless the applicant was a licensed electrical contractor at any time during 1974. Applicants who were electrical contractors licensed by the state of Washington at any time during 1974 are entitled to receive a general electrical contractor administrator's certificate without examination if the applicants apply prior to January 1, 1984. The board of electrical examiners shall certify to the department the names of all persons who are entitled to

FIFTY-THIRD DAY, MARCH 2, 2006

either a general or specialty electrical contractor administrator's certificate.

Sec. 2. RCW 19.28.161 and 2002 c 249 s 4 are each amended to read as follows:

(1) No person may engage in the electrical construction trade without having a valid master journeyman electrician certificate of competency, journeyman electrician certificate of competency, master specialty electrician certificate of competency, or specialty electrician certificate of competency issued by the department in accordance with this chapter. Electrician certificate of competency specialties include, but are not limited to: Residential, pump and irrigation, limited energy system, signs, nonresidential maintenance, restricted nonresidential maintenance, and appliance repair.

(2) A person who is indentured in an apprenticeship program approved under chapter 49.04 RCW for the electrical construction trade or who is learning the electrical construction trade may work in the electrical construction trade if supervised by a certified master journeyman electrician, journeyman electrician, master specialty electrician in that electrician's specialty, or specialty electrician in that electrician's specialty. All apprentices and individuals learning the electrical construction trade shall obtain an electrical training certificate from the department. The certificate shall authorize the holder to learn the electrical construction trade while under the direct supervision of a master journeyman electrician, journeyman electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty. The holder of the electrical training certificate shall renew the certificate biennially. At the time of renewal, the holder shall provide the department with an accurate list of the holder's employers in the electrical construction industry for the previous biennial period and the number of hours worked for each employer, and proof of sixteen hours of approved classroom electrical continuing education courses covering this chapter, the national electrical code, or electrical theory, or the equivalent electrical training courses taken as part of an approved apprenticeship program under chapter 49.04 RCW or an approved electrical training program under RCW 19.28.191(1)(h). This education requirement is effective July 1, 2006. A biennial fee shall be charged for the issuance or renewal of the certificate. The department shall set the fee by rule. The fee shall cover but not exceed the cost of administering and enforcing the trainee certification and supervision requirements of this chapter. Apprentices and individuals learning the electrical construction trade shall have their electrical training certificates in their possession at all times that they are performing electrical work. They shall show their certificates to an authorized representative of the department at the representative's request.

(3) Any person who has been issued an electrical training certificate under this chapter may work if that person is under supervision. Supervision shall consist of a person being on the same job site and under the control of either a certified master journeyman electrician, journeyman electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty. Either a certified master journeyman electrician, journeyman electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty shall be on the same job site as the noncertified individual for a minimum of seventy-five percent of each working day unless otherwise provided in this chapter.

(4) The ratio of noncertified individuals to certified master journeymen electricians, journeymen electricians, master specialty electricians, or specialty electricians on any one job site is as follows:

(a) When working as a specialty electrician, not more than two noncertified individuals for every certified master specialty electrician working in that electrician's specialty, specialty electrician working in that electrician's specialty, master

2006 REGULAR SESSION

journeyman electrician, or journeyman electrician, except that the ratio requirements are one certified master specialty electrician working in that electrician's specialty, specialty electrician working in that electrician's specialty, master journeyman electrician, or journeyman electrician working as a specialty electrician to no more than four students enrolled in and working as part of an electrical construction program at public community or technical colleges, or not-for-profit nationally accredited trade or technical schools licensed by the work force training and education coordinating board under chapter 28C.10 RCW. In meeting the ratio requirements for students enrolled in an electrical construction program at a trade school, a trade school may receive input and advice from the electrical board; and

(b) When working as a journeyman electrician, not more than one noncertified individual for every certified master journeyman electrician or journeyman electrician, except that the ratio requirements shall be one certified master journeyman electrician or journeyman electrician to no more than four students enrolled in and working as part of an electrical construction program at public community or technical colleges, or not-for-profit nationally accredited trade or technical schools licensed by the work force training and education coordinating board under chapter 28C.10 RCW. In meeting the ratio requirements for students enrolled in an electrical construction program at a trade school, a trade school may receive input and advice from the electrical board.

An individual who has a current training certificate and who has successfully completed or is currently enrolled in an approved apprenticeship program or in an electrical construction program at public community or technical colleges, or not-for-profit nationally accredited technical or trade schools licensed by the work force training and education coordinating board under chapter 28C.10 RCW, may work without direct on-site supervision during the last six months of meeting the practical experience requirements of this chapter.

(5) For the residential (as specified in WAC 296-46A-930(2)(a)), pump and irrigation (as specified in WAC 296-46A-930(2)(b)(i)), sign (as specified in WAC 296-46A-930(2)(c)), limited energy (as specified in WAC 296-46A-930(2)(e)(i)), nonresidential maintenance (as specified in WAC 296-46A-930(2)(f)(i)), restricted nonresidential maintenance as determined by the department in rule, or other new nonresidential specialties, not including appliance repair, as determined by the department in rule, either a master journeyman electrician, journeyman electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty must be on the same job site as the noncertified individual for a minimum of seventy-five percent of each working day. Other specialties must meet the requirements specified in RCW 19.28.191(1)(~~(f)(ii)~~) (g)(ii). When the ratio of certified electricians to noncertified individuals on a job site is one certified electrician to three or four noncertified individuals, the certified electrician must:

(a) Directly supervise and instruct the noncertified individuals and the certified electrician may not directly make or engage in an electrical installation; and

(b) Be on the same job site as the noncertified individual for a minimum of one hundred percent of each working day.

(6) The electrical contractor shall accurately verify and attest to the electrical trainee hours worked by electrical trainees on behalf of the electrical contractor."

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

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senators Kohl-Welles and Parlette to Substitute House Bill No. 1841.

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

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

MOTION

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

On page 1, line 1 of the title, after "trainees" strike the remainder of the title and insert "and contractor licenses; and amending RCW 19.28.041 and 19.28.161."

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 1841 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 Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 1841 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1841 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

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

Absent: Senator Brown - 1

Excused: Senators Haugen, Hewitt, Oke and Rockefeller - 4

SUBSTITUTE HOUSE BILL NO. 1841 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 Regala, Senator Brown was excused.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2414, by House Committee on Education (originally sponsored by Representatives Haler, Talcott and McCune)

Regarding Washington's academic assessment system. Revised for 1st Substitute: Regarding local control and flexibility in the state assessment system.

The measure was read the second time.

MOTION

On motion of Senator McAuliffe, the rules were suspended, Substitute House Bill No. 2414 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2414.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2414 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

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

Absent: Senator Deccio - 1

SUBSTITUTE HOUSE BILL NO. 2414, 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. 2670, by House Committee on Finance (originally sponsored by Representatives Kilmer, Lantz, Priest, Talcott, Green, Conway, Darneille, Cody, Hinkle, Linville, Flannigan, Miloscia and Moeller)

Authorizing hospital benefit zone financing.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, Substitute House Bill No. 2670 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Prentice, Oke, Zarelli, Stevens, Mulliken and Deccio spoke in favor of passage of the bill.

Senator Thibaudeau spoke on passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2670.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2670 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 1; Excused, 0.

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

Voting nay: Senators Fraser and Haugen - 2

Absent: Senator Brown - 1

SUBSTITUTE HOUSE BILL NO. 2670, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Kline: "My point is, this Madam President. It's that time of year, the smoking lamp is lit they say in some quarters in Seattle. We say the espresso machine is on. This is a bipartisan espresso machine, it just helps us out a little bit. It's going to be a long night, it's going to be a long night after that and then a long night after that. We have coffee over there, unfortunately no lattes. You have to take your espresso straight like we do in Seattle. I hope you'll join me over there and have a good cup. Thanks."

MOTION

On motion of Senator Regala, Senator Brown was excused.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1504, by House Committee on Transportation (originally sponsored by Representatives Simpson, Woods and Lovick)

Adjusting notice of abandoned vehicle auctions. Revised for 1st Substitute: Changing abandoned vehicle auction notice requirements.

The measure was read the second time.

MOTION

On motion of Senator Haugen, the rules were suspended, Substitute House Bill No. 1504 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and Benson spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 1504.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1504 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

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

Voting nay: Senator Benton - 1

SUBSTITUTE HOUSE BILL NO. 1504, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Honeyford: "Well, thank you Madam President. In our caucus, you've been come to be known as the fastest gavel in the West. That flaming gavel has been such speed it sucks the oxygen out of this chamber so we went out to Wal Mart and we purchased a gavel that has such heft that we think that it will slow it down. Anyway, this gavel's for you."

PERSONAL PRIVILEGE

Senator McCaslin: "I just would inform the body that nine percent of the sale price went for health insurance. So, those who supported the anti-Walmart bill, I hope you appreciate our purchase out there."

REMARKS BY PRESIDENT PRO TEMPORE

Senator Franklin: "This is a wonderful.....so generous. That is funny. Thank you."

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1257, by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Roach, Kirby, Newhouse, Simpson, Holmquist, Haler, Upthegrove, O'Brien and Nixon)

Providing an opportunity to reject motorcycle or motor-driven cycle insurance coverage.

The measure was read the second time.

MOTION

Senator Fairley moved that the following committee striking amendment by the Committee on Financial Institutions, Housing & Consumer Protection be adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 48.22.030 and 2004 c 90 s 1 are each amended to read as follows:

(1) "Underinsured motor vehicle" means a motor vehicle with respect to the ownership, maintenance, or use of which either no bodily injury or property damage liability bond or insurance policy applies at the time of an accident, or with respect to which the sum of the limits of liability under all bodily injury or property damage liability bonds and insurance policies applicable to a covered person after an accident is less than the applicable damages which the covered person is legally entitled to recover.

(2) No new policy or renewal of an existing policy insuring against loss resulting from liability imposed by law for bodily injury, death, or property damage, suffered by any person arising out of the ownership, maintenance, or use of a motor vehicle shall be issued with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of underinsured motor vehicles, hit-and-run motor vehicles, and phantom vehicles because of bodily injury, death, or property damage, resulting therefrom, except while operating or occupying a motorcycle or

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

motor-driven cycle, and except while operating or occupying a motor vehicle owned or available for the regular use by the named insured or any family member, and which is not insured under the liability coverage of the policy. The coverage required to be offered under this chapter is not applicable to general liability policies, commonly known as umbrella policies, or other policies which apply only as excess to the insurance directly applicable to the vehicle insured.

(3) Except as to property damage, coverage required under subsection (2) of this section shall be in the same amount as the insured's third party liability coverage unless the insured rejects all or part of the coverage as provided in subsection (4) of this section. Coverage for property damage need only be issued in conjunction with coverage for bodily injury or death. Property damage coverage required under subsection (2) of this section shall mean physical damage to the insured motor vehicle unless the policy specifically provides coverage for the contents thereof or other forms of property damage.

(4) A named insured or spouse may reject, in writing, underinsured coverage for bodily injury or death, or property damage, and the requirements of subsections (2) and (3) of this section shall not apply. If a named insured or spouse has rejected underinsured coverage, such coverage shall not be included in any supplemental or renewal policy unless a named insured or spouse subsequently requests such coverage in writing. The requirement of a written rejection under this subsection shall apply only to the original issuance of policies issued after July 24, 1983, and not to any renewal or replacement policy.

(5) The limit of liability under the policy coverage may be defined as the maximum limits of liability for all damages resulting from any one accident regardless of the number of covered persons, claims made, or vehicles or premiums shown on the policy, or premiums paid, or vehicles involved in an accident.

(6) The policy may provide that if an injured person has other similar insurance available to him under other policies, the total limits of liability of all coverages shall not exceed the higher of the applicable limits of the respective coverages.

(7)(a) The policy may provide for a deductible of not more than three hundred dollars for payment for property damage when the damage is caused by a hit-and-run driver or a phantom vehicle.

(b) In all other cases of underinsured property damage coverage, the policy may provide for a deductible of not more than one hundred dollars.

(8) For the purposes of this chapter, a "phantom vehicle" shall mean a motor vehicle which causes bodily injury, death, or property damage to an insured and has no physical contact with the insured or the vehicle which the insured is occupying at the time of the accident if:

(a) The facts of the accident can be corroborated by competent evidence other than the testimony of the insured or any person having an underinsured motorist claim resulting from the accident; and

(b) The accident has been reported to the appropriate law enforcement agency within seventy-two hours of the accident.

(9) An insurer who elects to write motorcycle or motor-driven cycle insurance in this state must provide information to prospective insureds about the coverage.

(10) An insurer who elects to write motorcycle or motor-driven cycle insurance in this state must provide an opportunity for

named insureds, who have purchased liability coverage for a motorcycle or motor-driven cycle, to reject underinsured coverage for that motorcycle or motor-driven cycle in writing."

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

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Financial Institutions, Housing & Consumer Protection to Substitute House Bill No. 1257.

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

MOTION

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

On page 1, line 2 of the title, after "coverage;" strike the remainder of the title and insert "and amending RCW 48.22.030."

MOTION

On motion of Senator Fairley, the rules were suspended, Substitute House Bill No. 1257 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 Hewitt and Stevens were excused.

POINT OF INQUIRY

Senator Deccio: "Would Senator Fairley yield to a question? Senator Fairley, if that's the title, 'Providing the opportunity to reject motorcycle or motor driven cycle insurance coverage, are we to take that literally or what?'"

Senator Fairley: "Not at all. What it really does is, when a guy goes in that's got a policy with an insurance company and he wants to cover his motorcycle, he can refuse, just like we can in our automobile insurance, 'he can say, 'I don't want uninsured motorist coverage! Before it was kind of well, do they have to tell everybody that who might own a motorcycle that this is available? They've decided that you have a policy already with the company.'"

Senator Deccio: "Senator Fairley, under present insurance I think you have to carry the minimum requirement of uninsured motorist along with the coverage that is required by law. I don't know that you can reject uninsured motorist..."

Senator Fairley: "You can reject it, a car dealer can."

Senators Roach, Benton and Mulliken spoke in favor of passage of the bill.

Senator Deccio spoke against passage of the bill.

MOTION

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

On motion of Senator Schoesler, Senator Zarelli was excused.

MOTION

On motion of Senator Mulliken, Senator Parlette was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 1257 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1257 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 41; Nays, 4; Absent, 1; Excused, 3.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Hargrove, Haugen, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McCaslin, Morton, Mulliken, Oke, Pflug, Poulsen, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker and Weinstein - 41

Voting nay: Senators Deccio, Fraser, Prentice and Thibaudeau - 4

Absent: Senator McAuliffe - 1

Excused: Senators Hewitt, Parlette and Zarelli - 3

SUBSTITUTE HOUSE BILL NO. 1257 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 Regala, Senators Kohl-Welles and Brown were excused.

SECOND READING

HOUSE BILL NO. 3252, by Representatives O'Brien, Rodne, Santos, Strow, Green, Simpson, McDonald, Morrell, Ericks, Kilmer, Williams and Hasegawa

Prohibiting offenders who enter Alford pleas from receiving a special sex offender sentencing alternative.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

" **Sec. 1.** RCW 9.94A.030 and 2005 c 436 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or

through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670, 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the community subject to controls placed on the offender's movement and activities by the department. For offenders placed on community custody for crimes committed on or after July 1, 2000, the department shall assess the offender's risk of reoffense and may establish and modify conditions of community custody, in addition to those imposed by the court, based upon the risk to community safety.

(6) "Community custody range" means the minimum and maximum period of community custody included as part of a sentence under RCW 9.94A.715, as established by the commission or the legislature under RCW 9.94A.850, for crimes committed on or after July 1, 2000.

(7) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(8) "Community protection zone" means the area within eight hundred eighty feet of the facilities and grounds of a public or private school.

(9) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(10) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. Where the court finds that any offender has a chemical dependency that has contributed to his or her offense, the conditions of supervision may, subject to available resources, include treatment. For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(11) "Confinement" means total or partial confinement.

(12) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(13) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(14) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(15) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(16) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

(17) "Department" means the department of corrections.

(18) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(19) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(20) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

(21) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(22) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(23) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(24) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-and-run injury-accident (RCW 46.52.020(4)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(25) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

(26) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

(27) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

(28) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(29) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.602;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

(v)(i) A prior conviction for indecent liberties under RCW 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997;

(w) Any out-of-state conviction for a felony offense that resulted in a sentence of ten years or more.

(30) "Nonviolent offense" means an offense which is not a violent offense.

(31) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(32) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention.

(33) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (33)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

(34) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.

(35) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

(36) "Public school" has the same meaning as in RCW 28A.150.010.

(37) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

(38) "Risk assessment" means the application of an objective instrument supported by research and adopted by the department for the purpose of assessing an offender's risk of reoffense, taking into consideration the nature of the harm done by the offender, place and circumstances of the offender related to risk, the offender's relationship to any victim, and any information provided to the department by victims. The results of a risk assessment shall not be based on unconfirmed or unconfirmable allegations.

(39) "Serious traffic offense" means:

(a) Driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(40) "Serious violent offense" is a subcategory of violent offense and means:

(a)(i) Murder in the first degree;

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(41) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.130(11);

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.070 or 9.68A.080; or

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(42) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(43) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(44) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

(45) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or

FIFTY-THIRD DAY, MARCH 2, 2006

utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(46) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(47) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(48) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(49) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

(50) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(51) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

Sec. 2. RCW 9.94A.030 and 2003 c 53 s 55 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current

2006 REGULAR SESSION

law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670, 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the community subject to controls placed on the offender's movement and activities by the department. For offenders placed on community custody for crimes committed on or after July 1, 2000, the department shall assess the offender's risk of reoffense and may establish and modify conditions of community custody, in addition to those imposed by the court, based upon the risk to community safety.

(6) "Community custody range" means the minimum and maximum period of community custody included as part of a sentence under RCW 9.94A.715, as established by the commission or the legislature under RCW 9.94A.850, for crimes committed on or after July 1, 2000.

(7) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(8) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(9) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. Where the court finds that any offender has a chemical dependency that has contributed to his or her offense, the conditions of supervision may, subject to available resources, include treatment. For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(10) "Confinement" means total or partial confinement.

(11) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(12) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(13) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(14) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(15) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

(16) "Department" means the department of corrections.

(17) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(18) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(19) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

(20) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(21) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(22) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(23) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-and-run injury-accident (RCW 46.52.020(4)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(24) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

(25) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

(26) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

(27) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(28) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.602;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(v)(i) A prior conviction for indecent liberties under RCW 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

FIFTY-THIRD DAY, MARCH 2, 2006

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997;

(w) Any out-of-state conviction for a felony offense that resulted in a sentence of ten years or more.

(29) "Nonviolent offense" means an offense which is not a violent offense.

(30) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(31) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention.

(32) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (32)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

(33) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.

(34) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

(35) "Risk assessment" means the application of an objective instrument supported by research and adopted by the

2006 REGULAR SESSION

department for the purpose of assessing an offender's risk of reoffense, taking into consideration the nature of the harm done by the offender, place and circumstances of the offender related to risk, the offender's relationship to any victim, and any information provided to the department by victims. The results of a risk assessment shall not be based on unconfirmed or unconfirmable allegations.

(36) "Serious traffic offense" means:

(a) Driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(37) "Serious violent offense" is a subcategory of violent offense and means:

(a)(i) Murder in the first degree;

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(38) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.130(11);

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.070 or 9.68A.080; or

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(39) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(40) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(41) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

(42) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(43) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

FIFTY-THIRD DAY, MARCH 2, 2006

(44) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(45) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(46) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

(47) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(48) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

NEW SECTION. Sec. 3. Section 1 of this act expires July 1, 2006.

NEW SECTION. Sec. 4. Section 2 of this act takes effect July 1, 2006.

NEW SECTION. Sec. 5. This act may be known and cited as the Chelsea Harrison act.

On page 1, line 2 of the title, after "alternative;" strike the remainder of the title and insert "amending RCW 9.94A.030 and 9.94A.030; creating a new section; providing an effective date; and providing an expiration date."

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

WITHDRAWAL OF AMENDMENT

On motion of Senator Benton, the striking amendment by Senator Benton to House Bill No. 3252 was withdrawn.

MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 3252 was advanced to third reading, the second

2006 REGULAR SESSION

reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 3252.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3252 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 0; Absent, 3; Excused, 5.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, McAuliffe, McCaslin, Morton, Mulliken, Oke, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau and Weinstein - 41

Absent: Senators Deccio, Pflug and Pridemore - 3

Excused: Senators Brown, Hewitt, Kohl-Welles, Parlette and Zarelli - 5

HOUSE BILL NO. 3252, 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. 2233, by House Committee on Higher Education & Workforce Education (originally sponsored by Representatives Kristiansen, B. Sullivan, Cox, Sells, Woods, Rodne, Bailey, Pearson, Strow, Campbell, Serben, O'Brien, Ahern, Kretz and Murray)

Mandating that a percentage of tuition waivers be granted to veterans. Revised for 1st Substitute: Mandating that a percentage of tuition waivers go to veterans.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that active military and naval veterans, reserve military and naval veterans, and national guard members called to active duty have served their country and have risked their lives to defend the lives of all Americans and the freedoms that define and distinguish our nation. The legislature intends to honor active military and naval veterans, reserve military and naval veterans, and national guard members who have served on active military or naval duty for the public service they have provided to this country by making available to all eligible admitted veterans a waiver of operating fees by a state university, a regional university, The Evergreen State College, or the community colleges as a whole, to veterans who qualify under RCW 28B.15.621.

Sec. 2. RCW 28B.15.910 and 2005 c 249 s 3 are each amended to read as follows:

(1) For the purpose of providing state general fund support to public institutions of higher education, except for revenue waived under programs listed in subsections (3) and (4) of this

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

section, and unless otherwise expressly provided in the omnibus state appropriations act, the total amount of operating fees revenue waived, exempted, or reduced by a state university, a regional university, The Evergreen State College, or the community colleges as a whole, shall not exceed the percentage of total gross authorized operating fees revenue in this subsection. As used in this section, "gross authorized operating fees revenue" means the estimated gross operating fees revenue as estimated under RCW 82.33.020 or as revised by the office of financial management, before granting any waivers. This limitation applies to all tuition waiver programs established before or after July 1, 1992.

- (a) University of Washington 21 percent
- (b) Washington State University 20 percent
- (c) Eastern Washington University 11 percent
- (d) Central Washington University 8 percent
- (e) Western Washington University 10 percent
- (f) The Evergreen State College 6 percent
- (g) Community colleges as a whole 35 percent

(2) The limitations in subsection (1) of this section apply to waivers, exemptions, or reductions in operating fees contained in the following:

- (a) RCW 28B.15.014;
- (b) RCW 28B.15.100;
- (c) RCW 28B.15.225;
- (d) RCW 28B.15.380;
- (e) RCW 28B.15.520;
- (f) RCW 28B.15.526;
- (g) RCW 28B.15.527;
- (h) RCW 28B.15.543;
- (i) RCW 28B.15.545;
- (j) RCW 28B.15.555;
- (k) RCW 28B.15.556;
- (l) RCW 28B.15.615;
- (m) RCW 28B.15.621(2);
- ~~(n) RCW 28B.15.730;~~
- ~~((m)) (o) RCW 28B.15.740;~~
- ~~((n)) (p) RCW 28B.15.750;~~
- ~~((o)) (q) RCW 28B.15.756;~~
- ~~((p)) (r) RCW 28B.50.259; and~~
- ~~((q)) (s) RCW 28B.70.050(~~r~~ and~~
- ~~(s) RCW 28B.15.621(2)).~~

(3) The limitations in subsection (1) of this section do not apply to waivers, exemptions, or reductions in services and activities fees contained in the following:

- (a) RCW 28B.15.522;
- (b) RCW 28B.15.540; and
- (c) RCW 28B.15.558.

(4) The total amount of operating fees revenue waived, exempted, or reduced by institutions of higher education participating in the western interstate commission for higher education western undergraduate exchange program under RCW 28B.15.544 shall not exceed the percentage of total gross authorized operating fees revenue in this subsection.

- (a) Washington State University 1 percent
- (b) Eastern Washington University 3 percent
- (c) Central Washington University 3 percent

(5) The institutions of higher education will participate in outreach activities to increase the number of veterans who receive tuition waivers. Colleges and universities shall revise the application for admissions so that all applicants shall have the opportunity to advise the institution that they are veterans

who need assistance. If a person indicates on the application for admissions that the person is a veteran who is in need of assistance, then the institution of higher education shall ask the person whether they have any funds disbursed in accordance with the Montgomery GI Bill available to them. Each institution shall encourage veterans to utilize funds available to them in accordance with the Montgomery GI Bill prior to providing the veteran a tuition waiver."

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

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Early Learning, K-12 & Higher Education to House Bill No. 2233.

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

MOTION

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

On page 1, line 1 of the title, after "veterans;" strike the remainder of the title and insert "amending RCW 28B.15.910; and creating a new section."

MOTION

On motion of Senator McAuliffe, the rules were suspended, Substitute House Bill No. 2233 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 Stevens spoke in favor of passage of the bill.

MOTION

On motion of Senator Mulliken, Senator Johnson was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2233 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2233 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

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

Excused: Senators Brown, Hewitt, Johnson, Kohl-Welles and Parlette - 5

SUBSTITUTE HOUSE BILL NO. 2233 as amended by the Senate, having received the constitutional majority, was

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

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

SECOND READING

ENGROSSED THIRD SUBSTITUTE HOUSE BILL NO. 2939, by House Committee on Capital Budget (originally sponsored by Representatives Grant, Dunshee, Linville, Kessler, Upthegrove, Kilmer, Ericks, Hasegawa, P. Sullivan, Santos, Green, Springer, Conway, Simpson and Hudgins)

Establishing the energy freedom program.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

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

(1) Washington's dependence on energy supplied from outside the state and volatile global energy markets makes its economy and citizens vulnerable to unpredictable and high energy prices;

(2) Washington's dependence on petroleum-based fuels increases energy costs for citizens and businesses;

(3) Diesel soot from diesel engines ranks as the highest toxic air pollutant in Washington, leading to hundreds of premature deaths and increasing rates of asthmas and other lung diseases;

(4) The use of biodiesel results in significantly less air pollution than traditional diesel fuels;

(5) Improper disposal and treatment of organic waste from farms and livestock operations can have a significant negative impact on water quality;

(6) Washington has abundant supplies of organic wastes from farms that can be used for energy production and abundant farmland where crops could be grown to supplement or supplant petroleum-based fuels;

(7) The use of energy and fuel derived from these sources can help citizens and business conserve energy and reduce the use of petroleum-based fuels, would improve air and water quality in Washington, reduce environmental risks from farm wastes, create new markets for farm products, and provide new industries and jobs for Washington citizens; and

(8) The bioenergy industry is a new and developing industry that is, in part, limited by the availability of capital for the construction of facilities for converting farm and forest products into energy and fuels.

Therefore, the legislature finds that it is in the public interest to encourage the rapid adoption and use of bioenergy, to develop a viable bioenergy industry within Washington state, and to support a viable agriculture industry to grow bioenergy crops. To accomplish this, the energy freedom program is established to stimulate the construction of facilities in Washington to generate energy from farm sources or convert organic matter into fuels.

NEW SECTION. Sec. 2. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

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

(3) "Director" means the director of the department of agriculture.

(4) "Political subdivision" means any port district, county, city, town, special purpose district, and any other municipal corporation or quasi-municipal corporation in the state.

(5) "Project" means the construction of facilities, including the purchase of equipment, to convert farm products or wastes into electricity or gaseous and liquid fuels or other coproducts associated with such conversion. These specifically include facilities, fixed or mobile, to generate electricity or methane from the anaerobic digestion of organic matter, and facilities for the extracting oils from canola, rape, mustard, and other oilseeds. "Project" may also include the construction of facilities used to distribute and store fuels that are produced from farm products or wastes.

NEW SECTION. Sec. 3. (1) The energy freedom program is established within the department. The director, in cooperation with the department of community, trade, and economic development, may approve an application providing assistance for a project only if the director finds:

(a) The project will convert farm products or wastes directly into electricity or into gaseous or liquid fuels or other coproducts associated with such conversion;

(b) The project demonstrates technical feasibility and probable business success;

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

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

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

(f) The assistance is accompanied by private investment;

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

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

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

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

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

(l) For applications seeking direct financial assistance, the applicant is unable to secure adequate financing from other sources.

(2) The director may approve an application for assistance up to five million dollars.

(3) The director shall enter into agreements with approved applicants to fix the terms and rates of the assistance to minimize the costs to the applicants, and to encourage establishment of a viable bioenergy industry. The agreement

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

shall include provisions to protect the state's investment, taking into account depreciation and other circumstances or market conditions. In the event the department of general administration coordinates a biodiesel technical assistance team, the agreement shall incorporate the appropriate best management practices developed by the team.

(4) The director may defer any payments for up to twelve months or until the project starts to receive revenue from operations, whichever is sooner.

(5) Political subdivisions and private entities, including economic development councils, may participate in the program.

NEW SECTION. Sec. 4. (1) The director may establish policies and procedures necessary for processing, reviewing, and approving applications made under this section.

(2) Each application must show in detail the nature of the project, the source of the feedstock, and the technologies that will be used. Each application must contain a credit analysis of the applicant and a detailed feasibility analysis and business plan.

(3) The director shall consult with those agencies having expertise and knowledge to assess the technical and business feasibility of the project and probability of success. These agencies may include, but are not limited to, Washington State University, the University of Washington, the department of ecology, the department of community, trade, and economic development, and the Washington state conservation commission.

(4) If the total requested dollar amount of assistance exceeds the amount available in the energy freedom account created in section 5 of this act, the applications must be prioritized based upon the following criteria:

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

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

(c) The extent to which the project will establish a viable bioenergy production capacity in Washington;

(d) The benefits to Washington's agriculture producers; and

(e) The number and quality of jobs and economic benefits created by the project.

NEW SECTION. Sec. 5. The energy freedom account is created in the state treasury. All receipts from appropriations made to the account and any loan payments of principal and interest derived from loans made under this chapter must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for assistance for projects consistent with this chapter. Administrative costs of the department may not exceed three percent of the total funds available for this program.

NEW SECTION. Sec. 6. The director shall report to the legislature and governor on the status of the energy freedom program created under this chapter, on or before December 1st of the years 2006, 2007, and 2009. This report must include information on the projects that have been funded, the status of these projects, and their environmental, energy savings, and job creation benefits.

Sec. 7. RCW 42.56.270 and 2005 c 274 s 407 are each amended to read as follows:

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;

(3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.-- (sections 1 through 6, 9, and 10 of this act), 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;

(5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;

(6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;

(7) Financial and valuable trade information under RCW 51.36.120;

(8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;

(9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;

(10) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a liquor license, gambling license, or lottery retail license;

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011; and

(12)(a) When supplied to and in the records of the department of community, trade, and economic development:

(i) Financial and proprietary information collected from any person and provided to the department of community, trade, and economic development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

(ii) Financial or proprietary information collected from any person and provided to the department of community, trade, and economic development or the office of the governor in

connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;

(b) When developed by the department of community, trade, and economic development based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of sixty days to the department of community, trade, and economic development from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter.

Sec. 8. RCW 43.84.092 and 2005 c 514 s 1106, 2005 c 353 s 4, 2005 c 339 s 23, 2005 c 314 s 110, 2005 c 312 s 8, and 2005 c 94 s 2 are each reenacted and amended to read as follows:

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

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

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

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

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

construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the emergency reserve fund, the energy freedom account, The Evergreen State College capital projects account, the federal forest revolving account, the freight mobility investment account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the high-occupancy toll lanes operations account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puyallup tribal settlement account, the real estate appraiser commission account, the regional transportation investment district account, the resource management cost account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the transportation partnership account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account,

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

MOTION

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

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

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

NEW SECTION. Sec. 9. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 10. Sections 1 through 6 and 9 of this act expire June 30, 2016. Any moneys in the energy freedom account on that date and any moneys received pursuant to assistance made under this chapter must be deposited in the general fund.

NEW SECTION. Sec. 11. Sections 1 through 6, 9, 10, and 12 of this act constitute a new chapter in Title 15 RCW.

NEW SECTION. Sec. 12. This act takes effect July 1, 2006."

On page 1, line 1 of the title, after "program;" strike the remainder of the title and insert "amending RCW 42.56.270; reenacting and amending RCW 43.84.092; adding a new chapter to Title 15 RCW; providing an effective date; and providing an expiration date."

Senator Rockefeller spoke on not adopting the committee striking amendment.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Rockefeller to not adopt the committee striking amendment by the Committee on Water, Energy & Environment to Engrossed Third Substitute House Bill No. 2939.

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

Senator Rockefeller moved that the following striking amendment by Senators Rockefeller and Mulliken be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that:

(1) Washington's dependence on energy supplied from outside the state and volatile global energy markets makes its economy and citizens vulnerable to unpredictable and high energy prices;

(2) Washington's dependence on petroleum-based fuels increases energy costs for citizens and businesses;

(3) Diesel soot from diesel engines ranks as the highest toxic air pollutant in Washington, leading to hundreds of premature deaths and increasing rates of asthma and other lung diseases;

(4) The use of biodiesel results in significantly less air pollution than traditional diesel fuels;

(5) Improper disposal and treatment of organic waste from farms and livestock operations can have a significant negative impact on water quality;

(6) Washington has abundant supplies of organic wastes from farms that can be used for energy production and abundant farmland where crops could be grown to supplement or supplant petroleum-based fuels;

(7) The use of energy and fuel derived from these sources can help citizens and businesses conserve energy and reduce the use of petroleum-based fuels, would improve air and water quality in Washington, reduce environmental risks from farm wastes, create new markets for farm products, and provide new industries and jobs for Washington citizens;

(8) The bioenergy industry is a new and developing industry that is, in part, limited by the availability of capital for the construction of facilities for converting farm and forest products into energy and fuels;

(9) Instead of leaving our economy at the mercy of global events, and the policies of foreign nations, Washington state should adopt a policy of energy independence; and

(10) The energy freedom program is meant to lead Washington state towards energy independence.

Therefore, the legislature finds that it is in the public interest to encourage the rapid adoption and use of bioenergy, to develop a viable bioenergy industry within Washington state, to promote public research and development in bioenergy sources and markets, and to support a viable agriculture industry to grow bioenergy crops. To accomplish this, the energy freedom program is established to promote public research and development in bioenergy, and to stimulate the construction of facilities in Washington to generate energy from farm sources or convert organic matter into fuels.

NEW SECTION. Sec. 2. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Applicant" means any political subdivision of the state, including port districts, counties, cities, towns, special purpose districts, and other municipal corporations or quasi-municipal corporations. "Applicant" may also include federally recognized tribes and state institutions of higher education with appropriate research capabilities.

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

(3) "Department" means the department of agriculture.

(4) "Director" means the director of the department of agriculture.

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

(6) "Project" means the construction of facilities, including the purchase of equipment, to convert farm products or wastes

FIFTY-THIRD DAY, MARCH 2, 2006

into electricity or gaseous or liquid fuels or other coproducts associated with such conversion. These specifically include fixed or mobile facilities to generate electricity or methane from the anaerobic digestion of organic matter, and fixed or mobile facilities for extracting oils from canola, rape, mustard, and other oilseeds. "Project" may also include the construction of facilities associated with such conversion for the distribution and storage of such feedstocks and fuels.

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

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

(b) The development of markets for bioenergy coproducts.

NEW SECTION. Sec. 3. (1) The energy freedom program is established within the department. The director may establish policies and procedures necessary for processing, reviewing, and approving applications made under this chapter.

(2) When reviewing applications submitted under this program, the director shall consult with those agencies having expertise and knowledge to assess the technical and business feasibility of the project and probability of success. These agencies may include, but are not limited to, Washington State University, the University of Washington, the department of ecology, the department of community, trade, and economic development, and the Washington state conservation commission.

(3) The director, in cooperation with the department of community, trade, and economic development, may approve an application only if the director finds:

(a) The project will convert farm products or wastes directly into electricity or into gaseous or liquid fuels or other coproducts associated with such conversion;

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

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

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

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

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

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

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

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

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

(k) For research and development projects, the application has been independently reviewed by a peer review committee as defined in section 2 of this act and the findings delivered to the director.

(4) The director may approve an application for assistance up to five million dollars. In no circumstances shall this assistance constitute more than fifty percent of the total project cost.

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

2006 REGULAR SESSION

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

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

NEW SECTION. Sec. 4. (1) Upon written notice to the recipient of any assistance under this program, the director may suspend or cancel the assistance if any of the following occur:

(a) The recipient fails to make satisfactory and reasonable progress to complete the project, or the director concludes the recipient will be unable to complete the project or any portion of it; or

(b) The recipient has made misrepresentations in any information furnished to the director in connection with the project.

(2) In the event that any assistance has been awarded to the recipient under this program at the time of breach, or failure of the recipient to satisfactorily perform, the director may require that the full amount or value of the assistance, or a portion thereof, be repaid within a period specified by the director.

NEW SECTION. Sec. 5. If the total requested dollar amount of assistance exceeds the amount available in the energy freedom account created in section 6 of this act, the applications must be prioritized based upon the following criteria:

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

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

(3) The extent to which the project will establish a viable bioenergy production capacity in Washington;

(4) The benefits to Washington's agricultural producers; and

(5) The number and quality of jobs and economic benefits created by the project.

NEW SECTION. Sec. 6. The energy freedom account is created in the state treasury. All receipts from appropriations made to the account and any loan payments of principal and interest derived from loans made under this chapter must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for assistance for projects consistent with this chapter. Administrative costs of the department may not exceed three percent of the total funds available for this program.

NEW SECTION. Sec. 7. The director shall report to the legislature and governor on the status of the energy freedom program created under this chapter, on or before December 1, 2006, and annually thereafter. This report must include information on the projects that have been funded, the status of these projects, and their environmental, energy savings, and job creation benefits.

Sec. 8. RCW 42.56.270 and 2005 c 274 s 407 are each amended to read as follows:

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;

(3) Financial and commercial information and records supplied by private persons pertaining to export services

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.-- (sections 2 through 7, 11, and 15 of this act), 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;

(5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;

(6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;

(7) Financial and valuable trade information under RCW 51.36.120;

(8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;

(9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;

(10) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a liquor license, gambling license, or lottery retail license;

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011; and

(12)(a) When supplied to and in the records of the department of community, trade, and economic development:

(i) Financial and proprietary information collected from any person and provided to the department of community, trade, and economic development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

(ii) Financial or proprietary information collected from any person and provided to the department of community, trade, and economic development or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;

(b) When developed by the department of community, trade, and economic development based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of sixty days to the department of community, trade, and economic development from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter.

Sec. 9. RCW 43.84.092 and 2005 c 514 s 1105, 2005 c 353 s 3, 2005 c 339 s 22, 2005 c 314 s 109, 2005 c 312 s 7, and 2005 c 94 s 1 are each reenacted and amended to read as follows:

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

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

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

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

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the emergency reserve fund, the energy freedom account, The Evergreen State College capital projects account, the federal forest revolving account, the freight mobility investment account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the high-occupancy toll lanes operations account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the perpetual surveillance and maintenance account, the public

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the Puyallup tribal settlement account, the real estate appraiser commission account, the regional transportation investment district account, the resource management cost account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the transportation partnership account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

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

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

Sec. 10. RCW 43.84.092 and 2006 c 6 s 8 are each amended to read as follows:

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

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

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

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

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Columbia river basin water supply development account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the emergency reserve fund, the energy freedom account, The Evergreen State College capital projects account, the federal forest revolving account, the freight mobility investment account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the high-occupancy toll lanes operations account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3

FIFTY-THIRD DAY, MARCH 2, 2006

account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puyallup tribal settlement account, the real estate appraiser commission account, the regional transportation investment district account, the resource management cost account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the transportation partnership account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

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

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

NEW SECTION. Sec. 11. Sections 1 through 7 of this act expire June 30, 2016. Any moneys in the energy freedom account on that date and any moneys received pursuant to assistance made under this chapter must be deposited in the general fund.

2006 REGULAR SESSION

NEW SECTION. Sec. 12. Sections 2 through 7, 11, and 15 of this act constitute a new chapter in Title 15 RCW.

NEW SECTION. Sec. 13. Sections 8 and 10 of this act take effect July 1, 2006.

NEW SECTION. Sec. 14. Section 9 of this act expires July 1, 2006.

NEW SECTION. Sec. 15. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Senators Rockefeller and Mulliken spoke in favor of adoption of the striking amendment.

Senator Morton spoke against adoption of the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senators Rockefeller and Mulliken to Engrossed Third Substitute House Bill No. 2939.

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

MOTION

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

On page 1, line 1 of the title, after "program;" strike the remainder of the title and insert "amending RCW 42.56.270 and 43.84.092; reenacting and amending RCW 43.84.092; adding a new chapter to Title 15 RCW; creating new sections; providing an effective date; and providing expiration dates."

MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed Third Substitute House Bill No. 2939 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller, Carrell and Mulliken spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Third Substitute House Bill No. 2939 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Third Substitute House Bill No. 2939 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Johnson - 1

ENGROSSED THIRD SUBSTITUTE HOUSE BILL NO. 2939 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 JOINT MEMORIAL NO. 4031, by Representatives Appleton, B. Sullivan, Green, Takko, McCoy, Hunt, Darneille, Flannigan, Kessler, Chase, Eickmeyer, Morris, McIntire, Murray, Woods, O'Brien, Ericks, Pettigrew, Moeller, Dunshee, Lantz, Schual-Berke, Lovick, Morrell, Kenney, Clibborn, Sommers, Walsh, Strow, Haler, Talcott, Jarrett, Wallace, Dickerson, Conway, P. Sullivan, Hasegawa, Uptegrove, Rodne, Hankins, Williams, Springer, Cody, McDermott, Sells, Miloscia, Kagi, Campbell, Simpson, Roberts and Kilmer

Preserving section 5 of the Marine Mammal Protection Act to protect Puget Sound.

The measure was read the second time.

MOTION

On motion of Senator Jacobsen, the rules were suspended, House Joint Memorial No. 4031 was advanced to third reading, the second reading considered the third and the resolution was placed on final passage.

Senator Jacobsen spoke in favor of passage of the resolution.

MOTION

On motion of Senator Regala, Senator Haugen was excused.

MOTION

On motion of Senator Schoesler, Senator Mulliken was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of House Joint Memorial No. 4031.

ROLL CALL

The Secretary called the roll on the final passage of House Joint Memorial No. 4031 and the resolution passed the Senate by the following vote: Yeas, 37; Nays, 8; Absent, 1; Excused, 3.

Voting yea: Senators Benson, Benton, Berkey, Brown, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Hewitt, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Oke, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Sheldon, Shin, Spanel, Swecker, Thibaudeau and Weinstein - 37

Voting nay: Senators Brandland, Carrell, Honeyford, McCaslin, Morton, Schoesler, Stevens and Zarelli - 8

Absent: Senator Poulsen - 1

Excused: Senators Haugen, Johnson and Mulliken - 3

HOUSE JOINT MEMORIAL NO. 4031, having received the constitutional majority, was declared passed.

SECOND READING

HOUSE BILL NO. 2381, by Representatives Kretz, Blake, Sump, Buri, Haler, Ericks and Holmquist

Authorizing a beaver relocation permit.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that beavers have historically played a significant role in maintaining the health of watersheds in the Pacific Northwest and act as key agents in riparian ecology. The live trapping and relocating of beavers has long been recognized as a beneficial wildlife management practice, and has been successfully utilized to restore and maintain stream ecosystems for over fifty years. The benefits of active beaver populations include reduced stream sedimentation, stream temperature moderation, higher dissolved oxygen levels, overall improved water quality, increased natural water storage capabilities within watersheds, and reduced stream velocities. These benefits improve and create habitat for many other species, including endangered salmon, river otters, sandhill cranes, trumpeter swans, and other riparian and aquatic species. Relocating beavers into their historic habitat provides a natural mechanism for improving the environmental conditions in Washington's riparian ecosystems without having to resort to governmental regulation or expensive publically funded engineering projects.

NEW SECTION. Sec. 2 A new section is added to chapter 77.32 RCW to read as follows:

(1) The department shall offer a beaver relocation permit that allows the holder or the holder's agent to capture live beavers in the areas of the state where elevated beaver populations are considered a nuisance, transport the beavers, and release the live beavers on property owned or managed by the permit holder. Priority of issuing permits must be based on properties in which beaver populations are considered a nuisance.

(2) The department may limit the availability of beaver relocation permits to areas of the state where:

(a) There is a low probability of released beavers becoming a nuisance;

(b) Conditions exist for released beavers to improve, maintain, or manage stream or riparian ecosystem functions; and

(c) There is evidence of historic endemic beaver populations.

(3) The department may condition beaver relocation permits to maximize the relocation's success and minimize risk. Factors that the department may condition include:

(a) Stream gradient;

(b) Sufficiency of the water supply;

(c) Stream geomorphology;

(d) Adequacy of a food source;

(e) Proper site elevation and valley width;

(f) Age of the beavers relocated;

(g) Times of year for capture and relocation;

(h) Requirements for the capture, handling, and transport of the live beavers;

(i) Minimum and maximum numbers of beavers that can be relocated in one area; and

(j) Requirements for the permit holder to initially provide supplemental food and lodge building materials.

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

(4) The department shall provide beaver relocation permits at no charge to the applicant.

(5) The holder of a beaver relocation permit must either obtain a trapping license under RCW 77.65.450 or employ a trapper licensed under RCW 77.65.450 to capture and transport the beavers that are to be relocated.

(6) Nothing in this section creates any liability against the state or the beaver relocation permit holder nor authorizes any private right of action for any damages subsequently caused by beavers released pursuant to a beaver relocation permit.

(7) For the purposes of this section only, beaver may be relocated from west of the crest of the Cascade mountains to areas east of the crest of the Cascade mountains, but may not be relocated to any area west of the crest of the Cascade mountains.

NEW SECTION, Sec. 3 A new section is added to chapter 77.36 RCW to read as follows:

Whenever the department undertakes the trapping of nuisance or problem-causing beavers, the department must, if the option is available, capture the beavers with a live trap and work with the holders of beaver relocation permits issued under section 2 of this act to relocate the beavers onto properties that have requested their placement."

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

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Natural Resources, Ocean & Recreation to House Bill No. 2381.

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 "species;" strike the remainder of the title and insert "adding a new section to chapter 77.32 RCW; adding a new section to chapter 77.36 RCW; and creating a new section."

MOTION

On motion of Senator Jacobsen, the rules were suspended, House Bill No. 2381 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 Oke spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 2381 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2381 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Hewitt, Honeyford, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe,

McCaslin, Morton, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Absent: Senator Brown - 1

Excused: Senators Haugen, Johnson and Mulliken - 3

HOUSE BILL NO. 2381 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Schoesler, Senator Brandland was excused.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2836, by House Committee on Appropriations (originally sponsored by Representatives Sommers, Kagi, Green and Kilmer)

Creating the reading achievement account.

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 43.79 RCW to read as follows:

(1) The reading achievement account is created in the custody of the state treasurer. The purposes of the account are to establish a depository for state and other funds made available for reading achievement, and to ensure that unspent amounts appropriated for reading achievement continue to be available for that purpose in future biennia.

(2) The director of early learning shall deposit in the account all appropriations to the department and nonstate moneys received by the department for reading achievement, including reading foundations and implementation of research-based reading models. Moneys deposited in the account do not lapse at the close of the fiscal period for which they were appropriated. Both during and after the fiscal period in which moneys were deposited in the account, the director may expend moneys in the account only for the purposes for which they were appropriated, and the expenditures are subject to any other conditions or limitations placed on the appropriations. (3) Expenditures from the account may be used only for reading achievement, including reading foundations, implementation of research-based reading models, and grants to school districts.

(4) Only the director of early learning 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.

Sec. 2 RCW 43.79A.040 and 2005 c 424 s 18, 2005 c 402 s 8, 2005 c 215 s 10, and 2005 c 16 s 2 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance

FIFTY-THIRD DAY, MARCH 2, 2006

with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

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

(4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the students with dependents grant account, the basic health plan self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the Washington international exchange scholarship endowment fund, the developmental disabilities endowment trust fund, the energy account, the fair fund, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and fire fighters' plan 2 expense fund, the local tourism promotion account, the produce railcar pool account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), ~~(and)~~ the life sciences discovery fund, and the reading achievement account. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right of way revolving fund, the advanced environmental mitigation revolving account, the city and county advance right-of-way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated

2006 REGULAR SESSION

earnings without the specific affirmative directive of this section."

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

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Substitute House Bill No. 2836.

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 1 of the title, after "achievement;" strike the remainder of the title and insert "reenacting and amending RCW 43.79A.040; and adding a new section to chapter 43.79 RCW."

MOTION

On motion of Senator Prentice, the rules were suspended, Substitute House Bill No. 2836 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2836 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2836 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 3; Excused, 3.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Hewitt, Honeyford, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Oke, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Spanel, Stevens, Swecker, Thibaudau, Weinstein and Zarelli - 43

Absent: Senators Brown, Poulsen and Shin - 3

Excused: Senators Haugen, Johnson and Mulliken - 3

SUBSTITUTE HOUSE BILL NO. 2836 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. 3127, by House Committee on Appropriations (originally sponsored by Representatives Santos, Hasegawa, McCoy, P. Sullivan, McDermott, Upthegrove, Pettigrew and Morrell)

Regarding the center for the improvement of student learning.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that expanding activity in educational research, educational restructuring, and educational improvement initiatives has produced and continues to produce much valuable information. The legislature finds that such information should be shared with the citizens and educational community of the state as widely as possible. The legislature further finds that students and schools benefit from increased parental, guardian, and community knowledge of and input regarding the delivery of public education. The legislature further finds that increased knowledge of and input regarding the public education system is particularly needed in low-income and ethnic minority communities.

The legislature finds that the center for the improvement of student learning, created by the legislature in 1993 under the auspices of the superintendent of public instruction, has not been allocated funding since the 2001-2003 biennium, and in effect no longer exists. It is the intent of the legislature to reactivate the center for the improvement of student learning, and to create an educational ombudsman to serve as a resource for parents and students and as an advocate for students in the public education system.

Sec. 2. RCW 28A.300.130 and 1999 c 388 s 401 are each amended to read as follows:

(1) ~~(Expanding activity in educational research, educational restructuring, and educational improvement initiatives has produced and continues to produce much valuable information. The legislature finds that such information should be shared with the citizens and educational community of the state as widely as possible.)~~ To facilitate access to information and materials on educational improvement and research, the superintendent of public instruction, to the extent funds are appropriated, shall establish the center for the improvement of student learning. ~~((The primary purpose of the center is to provide assistance and advice to parents, school board members, educators, and the public regarding strategies for assisting students in learning the essential academic learning requirements pursuant to RCW 28A.630.885.))~~ The center shall work in conjunction with ~~((the academic achievement and accountability commission))~~ parents, educational service districts, institutions of higher education, and education, parent, community, and business organizations.

(2) The center, in conjunction with other staff in the office of the superintendent of public instruction, shall:

(a) ~~((Serve as a clearinghouse for the completed work and activities of the academic achievement and accountability commission;~~

~~—(b))~~ Serve as a clearinghouse for information regarding successful educational improvement and parental involvement programs in schools and districts, and information about efforts within institutions of higher education in the state to support educational improvement initiatives in Washington schools and districts;

~~((c))~~ (b) Provide best practices research ~~((and advice))~~ that can be used to help schools develop and implement: Programs and practices to improve instruction ~~((of the essential academic~~

~~learning requirements under section 701 of this act)); systems to analyze student assessment data, with an emphasis on systems that will combine the use of state and local data to monitor the academic progress of each and every student in the school district; comprehensive, school-wide improvement plans; school-based shared decision-making models; programs to promote lifelong learning and community involvement in education; school-to-work transition programs; programs to meet the needs of highly capable students; programs and practices to meet the diverse needs of students based on gender, racial, ethnic, economic, and special needs status; research, information, and technology systems; and other programs and practices that will assist educators in helping students learn the essential academic learning requirements;~~

~~((d) Develop and distribute, in conjunction with the academic achievement and accountability commission, parental involvement materials, including instructional guides developed to inform parents of the essential academic learning requirements. The instructional guides also shall contain actions parents may take to assist their children in meeting the requirements, and should focus on reaching parents who have not previously been involved with their children's education;~~

~~—(e) Identify obstacles to greater parent and community involvement in school shared decision-making processes and recommend strategies for helping parents and community members to participate effectively in school shared decision-making processes, including understanding and respecting the roles of school building administrators and staff;~~

~~—(f))~~ (c) Develop and maintain an internet web site to increase the availability of information, research, and other materials;

~~((g) Take other actions to increase public awareness of the importance of parental and community involvement in education;~~

~~—(h))~~ (d) Work with appropriate organizations to inform teachers, district and school administrators, and school directors about the waivers available and the broadened school board powers under RCW 28A.320.015;

~~((i))~~ (e) Provide training and consultation services, including conducting regional summer institutes;

~~((j) Address methods for improving the success rates of certain ethnic and racial student groups))~~ (f) Identify strategies for improving the success rates of ethnic and racial student groups with disproportionate academic achievement; and

~~((k))~~ (g) Perform other functions consistent with the purpose of the center as prescribed in subsection (1) of this section.

(3) The superintendent of public instruction ~~((after consultation with the academic achievement and accountability commission;))~~ shall select and employ a director for the center.

(4) The superintendent may enter into contracts with individuals or organizations including but not limited to: School districts; educational service districts; educational organizations; teachers; higher education faculty; institutions of higher education; state agencies; business or community-based organizations; and other individuals and organizations to accomplish the duties and responsibilities of the center. In carrying out the duties and responsibilities of the center, the superintendent, whenever possible, shall use practitioners to assist agency staff as well as assist educators and others in schools and districts.

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

(5) The office of the superintendent of public instruction shall report to the legislature by September 1, 2007, and thereafter biennially, regarding the effectiveness of the center for improvement of student learning, how the services provided by the center for improvement of student learning have been used and by whom, and recommendations to improve the accessibility and application of knowledge and information that leads to improved student learning and greater family and community involvement in the public education system.

NEW SECTION. Sec. 3. (1) The state board of education shall establish an education ombudsman for all common school students in this state. The purpose of the education ombudsman is to provide information to parents, students, and others regarding their rights and responsibilities with respect to the state's public elementary and secondary education system, and to advocate on behalf of elementary and secondary students.

(2)(a) The state board of education shall conduct a request for proposals process and select the entity that will operate the education ombudsman's program. Entities eligible to apply for selection include, but are not limited:

- (i) Education service districts;
- (ii) Private, nonprofit educational organizations;
- (iii) Private, nonprofit community-based organizations; and
- (iv) Federally recognized Indian tribes.

(b) Entities not eligible to serve as the education ombudsman are school districts, schools, or the superintendent of public instruction, or any employee of a school district, school, or the superintendent of public instruction.

(3) The state board of education shall enter into a contract with the entity selected pursuant to this section to establish and operate the education ombudsman's program. The term of any contract between the state board of education and the entity selected shall not be greater than two years and may be renewed for terms of no longer than two years.

(4) The education ombudsman shall contract with educational service districts, nonprofit education or community organizations, or federally recognized tribes to provide education ombudsman services throughout the state. The education ombudsman shall delegate and certify regional education ombudsmen. The education ombudsman shall ensure that the regional ombudsmen selected are appropriate to the community in which they serve. The education ombudsman may not contract with the superintendent of public instruction, or any school, school district, or current employee of a school, school district, or the office of the superintendent of public instruction for the provision of regional ombudsman services.

NEW SECTION. Sec. 4. The education ombudsman shall have the following powers and duties:

(1) To develop parental involvement materials, including instructional guides developed to inform parents of the essential academic learning requirements required by the superintendent of public instruction. The instructional guides also shall contain actions parents may take to assist their children in meeting the requirements, and should focus on reaching parents who have not previously been involved with their children's education;

(2) To provide information to students, parents, and interested members of the public regarding this state's public elementary and secondary education system;

(3) To identify obstacles to greater parent and community involvement in school shared decision-making processes and recommend strategies for helping parents and community members to participate effectively in school shared

decision-making processes, including understanding and respecting the roles of school building administrators and staff;

(4) To identify and recommend strategies for improving the success rates of ethnic and racial student groups with disproportionate academic achievement;

(5) To refer complainants and others to appropriate resources, agencies, or departments;

(6) To facilitate the resolution of complaints made by parents and students with regard to the state's public elementary and secondary education system; and

(7) To perform such other functions consistent with the purpose of the education ombudsman.

NEW SECTION. Sec. 5. (1) The education ombudsman and any regional education ombudsmen shall have training or experience or both in the following areas:

(a) Public education law and policy in this state;

(b) Dispute resolution or problem resolution techniques, including mediation and negotiation; and

(c) Community outreach.

(2) The education ombudsman may not be an employee of any school district, the office of the superintendent of public education or the state board of education while serving as an education ombudsman.

NEW SECTION. Sec. 6. (1) Neither the education ombudsman nor any regional educational ombudsmen are liable for good faith performance of responsibilities under this chapter.

(2) No discriminatory, disciplinary, or retaliatory action may be taken against any student or employee of any school district, the office of the superintendent of public education, or the state board of education, for any communication made, or information given or disclosed, to aid the education ombudsman in carrying out his or her duties and responsibilities, unless the same was done without good faith or maliciously. This subsection is not intended to infringe upon the rights of a school district to supervise, discipline, or terminate an employee for other reasons or to discipline a student for other reasons.

(3) All communications by the education ombudsman or the ombudsman's staff or designee, if reasonably related to the education ombudsman's duties and responsibilities and done in good faith, are privileged and that privilege shall serve as a defense to any action in libel or slander.

NEW SECTION. Sec. 7. The education ombudsman shall treat all matters, including the identities of students, complainants, and individuals from whom information is acquired, as confidential, except as necessary to enable the education ombudsman to perform the duties of the office. Upon receipt of information that by law is confidential or privileged, the ombudsman shall maintain the confidentiality of such information and shall not further disclose or disseminate the information except as provided by applicable state or federal law.

NEW SECTION. Sec. 8. (1) When developing the request for proposals under section 3 of this act, the state board of education shall confer with each of the following:

(a) The Washington state commission on Hispanic affairs;

(b) The Washington state commission on African-American affairs;

(c) The Washington state commission on Asian Pacific American affairs; and

(d) The governor's office of Indian affairs.

(2) The state board of education may establish subcommittees as it desires, and may invite nonmembers to

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

serve on these subcommittees to provide ongoing consultation to the ombudsman.

(3) Nonlegislative members of the committee shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 9. The state board of education shall advise and make recommendations to the legislature and the governor biennially. The state board of education shall provide a preliminary report to the legislature and the governor by September 1, 2007. Thereafter, the state board of education shall provide biennial reports to the legislature and the governor regarding:

(1) How the education ombudsman's services have been used and by whom;

(2) Methods for the education ombudsman to increase and enhance family and community involvement in public education;

(3) Recommendations to eliminate barriers and obstacles to meaningful family and community involvement in public education; and

(4) Strategies to improve the educational opportunities for all students in the state.

NEW SECTION. Sec. 10. Sections 3 through 9 of this act are each added to chapter 28A.300 RCW.

NEW SECTION. Sec. 11. If specific funding for the purposes of this act and section 2 of this act, referencing this act and section 2 of this act by bill or chapter number and section number, is not provided by June 30, 2006, in the omnibus appropriations act, section 2 of this act is null and void."

MOTION

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

On page 3, line 23 of the amendment, after "achievement" insert ":

(g) Work with parents, teachers, and school districts in establishing an absentee notification procedure that will properly notify parents when their student has not attended a class or has missed a school day. The office of superintendent of public instruction shall consider various types of communication with parents, including but not limited to, electronic mail, phone, and postal mail"

Reletter the remaining subsection consecutively.

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

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators McAuliffe and Roach on page 3, line 23 to the committee striking amendment to Engrossed Substitute House Bill No. 3127.

The motion by Senator Roach carried and the amendment to the committee striking amendment was 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 29 of the amendment, after "chapter" strike "28A.300" and insert "28A.305"

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

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator McAuliffe on page 7, line 29 to the committee striking amendment to Engrossed Substitute House Bill No. 3127.

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

MOTION

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

On page 7, after line 29 of the amendment, insert the following:

"NEW SECTION. Sec. 11 Sections 3 through 9 of this act expire June 30, 2008."

Reletter the remaining section consecutively.

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

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators McAuliffe and Schmidt on page 7, line 29 to the committee striking amendment Engrossed Substitute House Bill No. 3127.

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

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Early Learning, K-12 & Higher Education as amended to Engrossed Substitute House Bill No. 3127.

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 amendments were adopted:

On page 1, line 1 of the title, after "education;" strike the remainder of the title and insert "amending RCW 28A.300.130; adding new sections to chapter 28A.300 RCW; and creating new sections."

On page 8, line 3 of the title amendment, after "chapter" strike "28A.300" and insert "28A.305"

On page 8, line 3 of the title amendment, after "RCW;" strike the remainder of the title amendment and insert "creating new sections; and providing an expiration date."

MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed Substitute House Bill No. 3127 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 McAuliffe spoke in favor of passage of the bill.

Senators Pflug and Zarelli spoke against passage of the bill.

MOTION

FIFTY-THIRD DAY, MARCH 2, 2006

On motion of Senator Schoesler, Senators Swecker and Roach were excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 3127 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 3127 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 28; Nays, 15; Absent, 1; Excused, 5.

Voting yea: Senators Benson, Berkey, Brandland, Doumit, Eide, Fairley, Franklin, Fraser, Hargrove, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Oke, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schmidt, Sheldon, Shin, Spanel, Thibaudeau and Weinstein - 28

Voting nay: Senators Benton, Carrell, Deccio, Delvin, Esser, Finkbeiner, Hewitt, Honeyford, McCaslin, Morton, Parlette, Pflug, Schoesler, Stevens and Zarelli - 15

Absent: Senator Brown - 1

Excused: Senators Haugen, Johnson, Mulliken, Roach and Swecker - 5

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3127 as amended by the Senate having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 6:43 p.m., on motion of Senator Eide, the Senate adjourned until 9:00 a.m. Friday, March 3, 2006.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

1010-S	Other Action	8	1471	Second Reading	15
	Second Reading	6		Third Reading Final Passage	15
	Second Reading Amendment	6	1504-S	Second Reading	50
	Third Reading Final Passage	8		Third Reading Final Passage	50
1080-S	Other Action	44	1510-S	Other Action	9
	Second Reading	39		Second Reading	9
	Second Reading Amendment	39		Second Reading Amendment	9
	Third Reading Final Passage	44		Third Reading Final Passage	10
1257-S	Other Action	51	1641	Second Reading	38
	Second Reading	50		Third Reading Final Passage	38
	Second Reading Amendment	50	1841-S	Other Action	46, 48
	Third Reading Final Passage	51		Second Reading	46
1305	Second Reading	13		Second Reading Amendment	46
	Third Reading Final Passage	13		Third Reading Final Passage	49

FIFTY-THIRD DAY, MARCH 2, 2006

2006 REGULAR SESSION

2056-S	Second Reading	13	Third Reading Final Passage	12	
	Third Reading Final Passage	13	2606	Other Action	36
2233	Other Action	59		Second Reading	36
	Second Reading Amendment	58		Second Reading Amendment	36
2233-S	Second Reading	58		Third Reading Final Passage	37
	Third Reading Final Passage	59	2670-S	Second Reading	49
2366	Second Reading	8		Third Reading Final Passage	49
	Third Reading Final Passage	8	2690	Second Reading	44
2379	Second Reading	9		Third Reading Final Passage	45
	Third Reading Final Passage	9	2713-S	Second Reading	2
2380	Second Reading	22		Third Reading Final Passage	2
	Third Reading Final Passage	23	2726-S	Second Reading	3
2381	Other Action	68		Third Reading Final Passage	3
	Second Reading	67	2804-S	Second Reading	21
	Second Reading Amendment	68		Third Reading Final Passage	21
	Third Reading Final Passage	68	2805-S2	Second Reading	14
2382-S	Second Reading	22		Third Reading Final Passage	15
	Second Reading Amendment	22	2836-S	Other Action	70
	Third Reading Final Passage	22		Second Reading	69
2384-S	Other Action	6		Second Reading Amendment	69
	Second Reading	5		Third Reading Final Passage	70
	Second Reading Amendment	5	2857	Second Reading	37
	Third Reading Final Passage	6		Third Reading Final Passage	38
2394-S	Second Reading	37	2876-S	Second Reading	37
	Third Reading Final Passage	37		Third Reading Final Passage	37
2409	Other Action	5	2908-S	Second Reading	21
	Second Reading	5		Third Reading Final Passage	22
	Second Reading Amendment	5	2932	Second Reading	45
	Third Reading Final Passage	5		Third Reading Final Passage	45
2414-S	Second Reading	49	2939-S3	Other Action	63, 67
	Third Reading Final Passage	49		Second Reading	59
2431-S	Other Action	4		Second Reading Amendment	59, 63
	Second Reading	3		Third Reading Final Passage	67
	Second Reading Amendment	3	2951-S	Second Reading	38
	Third Reading Final Passage	4		Third Reading Final Passage	38
2479-S	Second Reading	3	2972	Other Action	23
	Third Reading Final Passage	3		Second Reading	23
2520	Third Reading	1		Second Reading Amendment	23
	Third Reading Final Passage	1		Third Reading Final Passage	23
2553-S	Second Reading	28	2987-S	Second Reading	8
	Second Reading Amendment	28		Third Reading Final Passage	9
2567	Other Action	10	3056	Second Reading	12
	Second Reading	10		Third Reading Final Passage	12
	Second Reading Amendment	10	3074	Second Reading	46
	Third Reading Final Passage	11		Third Reading Final Passage	46
2579	Other Action	25, 26	3079-S	Other Action	27
	Second Reading	24		Second Reading	27
	Second Reading Amendment	24, 25		Second Reading Amendment	27
	Third Reading Final Passage	26		Third Reading Final Passage	28
2596-S	Other Action	12	3120-S	Second Reading	11
	Second Reading	11		Third Reading Final Passage	11
	Second Reading Amendment	11			

FIFTY-THIRD DAY, MARCH 2, 2006

3127-S
 Other Action 73
 Second Reading 70
 Second Reading Amendment 70, 72
 Third Reading Final Passage 73

3128-S
 Second Reading 45
 Third Reading Final Passage 45

3134
 Second Reading 2
 Third Reading Final Passage 2

3137-S
 Second Reading 2
 Third Reading Final Passage 2

3154
 Second Reading 26
 Third Reading Final Passage 26

3178-S
 Other Action 21
 Second Reading 15
 Second Reading Amendment 15
 Third Reading Final Passage 21

3192
 Second Reading 45
 Third Reading Final Passage 46

3252
 Other Action 58
 Second Reading 52
 Second Reading Amendment 52
 Third Reading Final Passage 58

3316-S
 Introduction & 1st Reading 1
 Messages 1
 Other Action 1

4023
 Second Reading 23
 Third Reading Final Passage 23

4031
 Second Reading 67
 Third Reading Final Passage 67

8721
 Adopted 13
 Introduced 12

MESSAGE FROM GOVERNOR
 Gubernatorial Appointments 1

PRESIDENT OF THE SENATE (SENATOR FRANKLIN
 PRESIDING)
 Remarks by President Pro Tempore 50

WASHINGTON STATE SENATE
 Personal Privilege, Senator Benton 14
 Personal Privilege, Senator Brandland 9
 Personal Privilege, Senator Brown 14
 Personal Privilege, Senator Delvin 14
 Personal Privilege, Senator Hargrove 14
 Personal Privilege, Senator Honeyford 50
 Personal Privilege, Senator Kline 49
 Personal Privilege, Senator McCaslin 14, 50
 Personal Privilege, Senator Oke 14
 Personal Privilege, Senator Roach 14
 Point of Inquiry, Senator Deccio 28, 51
 Point of Inquiry, Senator Finkbeiner 46
 Point of Inquiry, Senator Honeyford 14
 Statement for the Journal, Senator Roach 9