EIGHTY-SEVENTH DAY

MORNING SESSION

Senate Chamber, Olympia, Wednesday, April 8, 2009

The Senate was called to order at 9:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Berkey and Zarelli.

The Sergeant at Arms Color Guard consisting of Pages Alejandro Campos and Nicole Tom, presented the Colors. Honor Guard Chaplain Bob O'Bryan of American Legion Post 15 of Kent 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 fourth order of business.

MESSAGE FROM THE HOUSE

April 7, 2009

MR. PRESIDENT:
The House has passed the following bills:
SENATE BILL NO. 5017,
SUBSTITUTE SENATE BILL NO. 5271,
SENATE BILL NO. 5284,
SENATE BILL NO. 5322,
SUBSTITUTE SENATE BILL NO. 5327,
SUBSTITUTE SENATE BILL NO. 5343,
SENATE BILL NO. 5426,
SUBSTITUTE SENATE BILL NO. 5434,
SENATE BILL NO. 5695,
SENATE BILL NO. 5699,
SENATE BILL NO. 5767,
SUBSTITUTE SENATE BILL NO. 5793,
SUBSTITUTE SENATE BILL NO. 5987,
SUBSTITUTE SENATE BILL NO. 6000,
SUBSTITUTE SENATE BILL NO. 6024,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 7, 2009

MR. PRESIDENT:
The House has passed the following bills:
SUBSTITUTE SENATE BILL NO. 5151,
SUBSTITUTE SENATE BILL NO. 5195,
SENATE BILL NO. 5233,
SENATE BILL NO. 5305,
SENATE BILL NO. 5315,
SUBSTITUTE SENATE BILL NO. 5350,
SENATE BILL NO. 5980,
SENATE JOINT MEMORIAL NO. 8003,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 7, 2009

MR. PRESIDENT:
The Speaker has signed the following:
SENATE BILL NO. 5102,
SENATE BILL NO. 5125,
SENATE BILL NO. 5147,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 7, 2009

MR. PRESIDENT:
The Speaker has signed the following:
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1007,
HOUSE BILL NO. 1030,
HOUSE BILL NO. 1121,
SUBSTITUTE HOUSE BILL NO. 1128,
HOUSE BILL NO. 1155,
SUBSTITUTE HOUSE BILL NO. 1205,
SUBSTITUTE HOUSE BILL NO. 1261,
SUBSTITUTE HOUSE BILL NO. 1308,
HOUSE BILL NO. 1366,
HOUSE BILL NO. 1394,
HOUSE BILL NO. 1682,
SUBSTITUTE HOUSE BILL NO. 1730,
SUBSTITUTE HOUSE BILL NO. 1765,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1926,
SUBSTITUTE HOUSE BILL NO. 2042,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 7, 2009

MR. PRESIDENT:
The Speaker has signed the following:
HOUSE BILL NO. 1196,
HOUSE BILL NO. 1197,
SUBSTITUTE HOUSE BILL NO. 1202,
HOUSE BILL NO. 1338,
SUBSTITUTE HOUSE BILL NO. 1388,
HOUSE BILL NO. 1475,
HOUSE BILL NO. 1536,
HOUSE BILL NO. 1678,
HOUSE BILL NO. 1997,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2126,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

MOTION

Senator Parlette moved adoption of the following resolution:

SENATE RESOLUTION
8660

By Senators Parlette, Kastama, Pridemore, Swecker, King, Delvin, Franklin, Holmquist, Becker, Kohl-Welles, McCaslin, and Kauffman

WHEREAS, Washington's apple industry is a major contributor to the economic health of both the state and its people; and

WHEREAS, The City of Wenatchee is preparing to celebrate the 90th annual Washington State Apple Blossom Festival to take place from April 23 through May 3, 2009; and

WHEREAS, The Apple Blossom Festival, which began as a one-day gathering of poetry and song in Wenatchee's Memorial Park, is one of the oldest major festivals in the state, first celebrated in 1919 when Mrs. E. Wagner organized the first Blossom Day; and

WHEREAS, The Apple Blossom Festival celebrates the importance of the apple industry in the Wenatchee Valley and its environs; and

WHEREAS, The Apple Blossom Festival recognizes three young women who by their superior and distinctive efforts have exemplified the spirit and meaning of the Apple Blossom Festival; and

WHEREAS, These three young women are selected to reign over the Apple Blossom Festival and serve as ambassadors to the outlying communities as Princesses and Queen; and

WHEREAS, Breanna Allstot has been selected to represent her community as a 2009 Apple Blossom Princess, in part for her strong academic performance as a Running Start Participant, and diverse array of extracurricular activities and interests, including her passion for music, her athletic abilities in varsity bowling, her care for others, and the generosity she shows by giving of her time to children's musical productions at her church, in addition to her jovial demeanor and strong faith; and

WHEREAS, Rebecca Higgins has been selected to represent her community as a 2009 Apple Blossom Princess, in part for her passion for theater and music as demonstrated by her participation in every drama production throughout high school, and her membership in Chamber Singers, and Hy-land Kids singers, for her commitment to academic excellence, in addition to her genuine, lighthearted nature, which is exemplified through her positive, caring attitude; and

WHEREAS, Katherine Safar has been selected to represent her community as the 2009 Apple Blossom Queen, in part for her compassionate and humble spirit, and her strong leadership ability as shown through the organization of several school activities including freshman orientation and the 11th annual Janice Franz Talent, her strong academic performance and participation in extracurricular activities including varsity swimming and Chamber Singers, in addition to her playful, spontaneous nature, and heartfelt love for people; and

WHEREAS, These three young women all desire to utilize their proven leadership ambition to serve their communities and be of help to those they encounter;

NOW, THEREFORE, BE IT RESOLVED, That the Senate of the State of Washington honor the accomplishments of the members of the Apple Blossom Festival Court and join the City of Wenatchee and the people of the State of Washington in celebrating the Washington State Apple Blossom Festival; and

BE IT FURTHER RESOLVED, That copies of this Resolution be immediately transmitted by the Secretary of the Senate to Queen Katherine Safar, Princess Breanna Allstot, Princess Rebecca Higgins, and the Board of Directors and Chairpeople of the Washington State Apple Blossom Festival.

Senator Parlette spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8660.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced the 2009 Apple Blossom Court: Queen Katherine Safar; Princess Breanna Allstot; and Princess Rebecca Higgins who were seated at the rostrum.

With permission of the Senate, business was suspended to allow Apple Blossom Court Queen Katherine Safar to address the Senate.

REMARKS BY QUEEN KATHERINE SAFAR

Queen Katherine Safar: “Well good morning. On behalf of Princess Breanna, Princess Rebecca and myself, we thank you so much for inviting us here today. It is our honor and a privilege to tour the capitol and speak to you. We live in such a beautiful state and are so fortunate to share about our home town Wenatchee and the Washington State Apple Blossom Festival. We want to invite you all to see the valley we call home. Our festival runs April 23 through May 3 and we look forward to sharing it with you. There are countless activities to enjoy and they are all community and family orientated. This year the Washington State Apple Blossom Festival’s theme is ‘Ninety years of volunteers.’ We witness the tremendous community support and generousity surrounding our festival. The theme is truly fitting and reflects the community spirit in our valley. All three of us have been learning and experiencing new things every day as Apple Blossom Royalty and are so appreciative for this unforgettable opportunity to learn and to share. Thank you also for your service to the people of Washington and we want you to please come and visit us in our great state to celebrate the apple industry and our community. In addition to that we have a rendition of ‘Apple Blossom Time’ that we’d love to all three sing to you, so thank you again. It’s our honor to be here.”

The 2009 Apple Blossom Court performed “Apple Blossom Time.’

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Apple Blossom Court Chaperones Vera and Bob Curtis; Judy and Bob Rust and former Speaker Clyde Ballard and wife Ruth who were seated in the gallery.

MOTION

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

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Hewitt moved that Gubernatorial Appointment No. 9104, Miguel Sanchez, as a member of the Board of Trustees, Walla Walla Community College District No. 20, be confirmed.

Senator Hewitt spoke in favor of the motion.

MOTION

On motion of Senator Brandland, Senators Benton and Zarelli were excused.

MOTION

On motion of Senator Marr, Senators Berkey, Brown and Fairley were excused.

APPOINTMENT OF MIGUEL SANCHEZ

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9104, Miguel Sanchez as a member of the Board of Trustees, Walla Walla Community College District No. 20.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9104, Miguel Sanchez as a member of the Board of Trustees, Walla Walla Community College District No. 20 and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Berkey and Zarelli

Gubernatorial Appointment No. 9104, Miguel Sanchez, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Walla Walla Community College District No. 20.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1292, by House Committee on Education (originally sponsored by Representatives Newhouse, Chandler and Simpson)

Authorizing waivers from the one hundred eighty-day school year requirement in order to allow four-day school weeks.

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 Education be adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature continues to support school districts seeking innovations to further the educational experiences of students and staff while also realizing increased efficiencies in day-to-day operations. School districts have suggested that efficiencies in heating, lighting, or maintenance expenses could be possible if districts were given the ability to create a more flexible calendar. Furthermore, the legislature finds that a flexible calendar could be beneficial to student learning by allowing for the use of the unscheduled days for professional development activities, planning, tutoring, special programs, parent conferences, and athletic events. A flexible calendar also has the potential to ease the burden of long commutes on students in rural areas and to lower absenteeism.

School districts in several western states have operated on a four-day school week and report increased efficiencies, family support, and reduced absenteeism, with no negative impact on student learning. Small rural school districts in particular could benefit due to their high per-pupil costs for transportation and utilities. Therefore, the legislature intends to provide increased flexibility to a limited number of school districts to explore the potential value of operating on a flexible calendar, so long as adequate safeguards are put in place to prevent any negative impact on student learning.

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

(1) In addition to waivers authorized under RCW 28A.305.140 and 28A.655.180, the state board of education may grant waivers from the requirement for a one hundred eighty-day school year under RCW 28A.150.220 and 28A.150.250 to school districts that propose to operate one or more schools on a flexible calendar for purposes of economy and efficiency as provided in this section. The requirement under RCW 28A.150.220 that school districts offer an annual average instructional hour offering of at least one thousand hours shall not be waived.

(2) A school district seeking a waiver under this section must submit an application that includes:

(a) A proposed calendar for the school day and school year that demonstrates how the instructional hour requirement will be maintained;

(b) An explanation and estimate of the economies and efficiencies to be gained from compressing the instructional hours into fewer than one hundred eighty days;

(c) An explanation of how monetary savings from the proposal will be redirected to support student learning;

(d) A summary of comments received at one or more public hearings on the proposal and how concerns will be addressed;

(e) An explanation of the impact on students who rely upon free and reduced-price school child nutrition services and the impact on the ability of the child nutrition program to operate an economically independent program;

(f) An explanation of the impact on the ability to recruit and retain employees in education support positions;

(g) An explanation of the impact on students whose parents work during the missed school day; and

(h) Other information that the state board of education may request to assure that the proposed flexible calendar will not adversely affect student learning.

(3) The state board of education shall adopt criteria to evaluate waiver requests. No more than five districts may be granted waivers. Waivers may be granted for up to three years. After each school year, the state board of education shall analyze empirical evidence to determine whether the reduction is affecting student learning. If the state board of education determines that student learning is adversely affected, the school district shall discontinue the flexible calendar as soon as possible but not later than the beginning of the next school year after the determination has been made. All waivers expire August 31, 2014.

(a) Two of the five waivers granted under this subsection shall be granted to schools with student populations of less than one hundred fifty students.

(b) Three of the five waivers granted under this subsection shall be granted to schools with student populations of between one hundred fifty-one and five hundred students.

(4) The state board of education shall examine the waivers granted under this section and make a recommendation to the education committees of the legislature by December 15, 2013, regarding whether the waiver program should be continued, modified, or allowed to terminate. This recommendation should focus on whether the program resulted in improved student learning as demonstrated by empirical evidence. Such evidence includes, but is not limited to: Improved scores on the Washington assessment of student learning, results of the

dynamic indicators of basic early literacy skills, student grades, and attendance.

(5) This section expires August 31, 2014.

Sec. 3. RCW 28A.655.180 and 1995 c 208 s 1 are each amended to read as follows:

(1) The state board of education, where appropriate, or the superintendent of public instruction, where appropriate, may grant waivers to districts from the provisions of statutes or rules relating to: The length of the school year; student-to-teacher ratios; and other administrative rules that in the opinion of the state board of education or the opinion of the superintendent of public instruction may need to be waived in order for a district to implement a plan for restructuring its educational program or the educational program of individual schools within the district.

(2) School districts may use the application process in RCW 28A.305.140 ((~~or 28A.300.138~~)) to apply for the waivers under ((~~subsection (1) of~~)) this section.

(((~~(3) The joint select committee on education restructuring shall study which waivers of state laws or rules are necessary for school districts to implement education restructuring. The committee shall study whether the waivers are used to implement specific essential academic learning requirements and student learning goals. The committee shall study the availability of waivers under the schools for the twenty-first century program created by chapter 525, Laws of 1987, and the use of those waivers by schools participating in that program. The committee shall also study the use of waivers authorized under RCW 28A.305.140. The committee shall report its findings to the legislature by December 1, 1997.~~))

NEW SECTION. **Sec. 4.** RCW 28A.305.145 (Application process for waivers under RCW 28A.305.140) and 1993 c 336 s 302 are each repealed."

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

MOTION

Senator Rockefeller moved that the following amendment by Senators Rockefeller, McAuliffe and King to the committee striking amendment be adopted.

On page 2, line 28 of the amendment, after "than" strike "five" and insert "seven"

On page 2, line 37 of the amendment, after "the" strike "five" and insert "seven"

On page 3, line 1 of the amendment, after "to" strike "schools" and insert "school districts"

On page 3, line 4 of the amendment, after "to" strike "schools" and insert "school districts"

On page 3, after line 5 of the amendment, insert the following:

"(c) Two of the seven waivers granted under this subsection (3) shall be granted to school districts with student populations greater than five hundred students and less than five thousand students."

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

The President declared the question before the Senate to be the adoption of the amendment by Senators Rockefeller, McAuliffe and King on page 2, line 28 to the committee striking amendment to Substitute House Bill No. 1292.

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Early Learning & K-12 Education as amended to Substitute House Bill No. 1292.

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

MOTION

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

On page 1, line 2 of the title, after "year;" strike the remainder of the title and insert "amending RCW 28A.655.180; adding a new section to chapter 28A.305 RCW; creating a new section; repealing RCW 28A.305.145; and providing an expiration date."

MOTION

On motion of Senator McAuliffe, the rules were suspended, Substitute House Bill No. 1292 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, King and Schoesler spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1292 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1292 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 34; Nays, 13; Absent, 0; Excused, 2.

Voting yea: Senators Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, King, Kline, Kohl-Welles, McAuliffe, McCaslin, McDermott, Morton, Oemig, Pflug, Prentice, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin and Swecker

Voting nay: Senators Becker, Benton, Brandland, Kauffman, Keiser, Kilmer, Marr, Murray, Parlette, Pridemore, Roach, Stevens and Tom

Excused: Senators Berkey and Zarelli

SUBSTITUTE HOUSE BILL NO. 1292 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. 1478, by Representatives Orcutt, Takko, McCune, Hurst, Herrera, Campbell, Johnson, Kelley and Dammeier

Addressing vehicle registrations for deployed military personnel.

The measure was read the second time.

MOTION

On motion of Senator Jarrett, the rules were suspended, House Bill No. 1478 was advanced to third reading, the second

reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator Marr, Senator McAuliffe was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 1478.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1478 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

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

Absent: Senator Brown

Excused: Senators Berkey, McAuliffe and Zarelli

HOUSE BILL NO. 1478, 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. 1492, by Representatives Pedersen, Pettigrew, Haler, Kagi, Walsh, Darneille, Dickerson, Nelson, Moeller, Appleton, Roberts, Ormsby and Kenney

Addressing the independent youth housing program.

The measure was read the second time.

MOTION

On motion of Senator Regala, the rules were suspended, House Bill No. 1492 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Regala spoke in favor of passage of the bill.

MOTION

On motion of Senator Marr, Senator Brown was excused.

POINT OF INQUIRY

Senator Benton: "Will Senator Regala yield to a question? It's a friendly question Senator Regala. Does this bill provide any additional funding for this program or does it simply change the eligibility standards and how the money can be spent?"

Senator Regala: "Since I see the fiscal impact is zero I think it just changes the eligibility for how the money can be spent."

The President declared the question before the Senate to be the final passage of House Bill No. 1492.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1492 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Berkey, Brown, McAuliffe and Zarelli

HOUSE BILL NO. 1492, 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. 1845, by House Committee on Judiciary (originally sponsored by Representatives Rodne and Pedersen)

Concerning medical support obligations.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 26.09.105 and 1994 c 230 s 1 are each amended to read as follows:

(1) ((~~In entering or modifying~~)) Whenever a child support order is entered or modified under this chapter, the court shall require ((~~either or~~)) both parents to provide medical support for any child named in the order as provided in this section.

(a) Under appropriate circumstances, the court may excuse one parent from the responsibility to provide health insurance or cash medical support;

(b) The court shall always require both parents to contribute their proportionate share of uninsured medical expenses.

(2) Both parents share the obligation to provide medical support for the child or children specified in the order, by providing health insurance coverage, contributing a cash medical support obligation when appropriate, and paying a proportionate share of any uninsured medical expenses.

(a) The court may specify priorities for enforcement under subsection (4) of this section.

(b) If the court does not so specify, the provisions of subsection (3) of this section shall apply.

(3) If neither parent provides proof that he or she is providing health insurance for the child at the time the support order is entered, the division of child support or one of the parents may enforce a parent's obligation to provide health insurance coverage as provided in RCW 26.18.170.

(4)(a) If there is sufficient evidence provided at the time the order is entered, the court may make a determination of which parent must provide coverage and which parent must contribute a sum certain amount which represents his or her proportionate share of the premium paid, not to exceed twenty-five percent of his or her basic child support obligation.

(b) If both parents have available health insurance coverage that is accessible to the child at the time the support order is entered, the court has discretion to order the parent with better coverage to provide the health insurance coverage for the child and the other parent to pay as cash medical support his or her proportionate share of the premium paid, but not to exceed twenty-five percent of his or her basic child support obligation. In making the determination of which coverage is better, the court shall consider the needs of the child, the cost and extent of each parent's coverage, and the accessibility of the coverage.

(c) Each parent shall remain responsible for his or her proportionate share of uninsured medical expenses.

(d) The order must provide that if the parties' circumstances change, the parties' medical support obligations will be enforced as provided in RCW 26.18.170.

(5) A parent who is ordered to maintain or provide health insurance coverage ((~~except as provided in subsection (2) of this section,~~)) may comply with that requirement by:

(a) Providing proof of accessible private insurance coverage for any child named in the order ((~~if: (a)~~)); or

(b) Providing coverage that can be extended to cover the child that is ((~~or becomes~~)) available to that parent through employment or that is union-related((~~; and~~

~~(b)~~)), if the cost of such coverage does not exceed twenty-five percent of ((~~the obligated~~)) that parent's basic child support obligation.

(((~~(2)~~))) (6) The court ((~~shall consider the best interests of the child and have discretion to~~)) may order a parent to provide health insurance coverage ((~~when entering or modifying a support order under this chapter if the cost of such coverage~~)) that exceeds twenty-five percent of ((~~the obligated~~)) that parent's basic support obligation if it is in the best interests of the child to provide coverage.

(((~~(3)~~))) (7) If the child receives state-financed medical coverage through the department under chapter 74.09 RCW for which there is an assignment, the obligated parent shall pay cash medical support in an amount equal to his or her proportionate share of the health insurance premium, not to exceed twenty-five percent of his or her basic child support obligation.

(8) Each parent is responsible for his or her proportionate share of uninsured medical expenses for the child or children covered by the support order.

(9) The parents ((~~shall~~)) must maintain ((~~such~~)) health insurance coverage as required under this section until:

(a) Further order of the court;

(b) The child is emancipated, if there is no express language to the contrary in the order; or

(c) Health insurance is no longer available through the parents' employer or union and no conversion privileges exist to continue coverage following termination of employment.

(((~~(4)~~))) (10) A parent who is required to extend health insurance coverage to a child under this section is liable for any covered health care costs for which the parent receives direct payment from an insurer.

(((~~(5)~~))) (11) This section shall not be construed to limit the authority of the court to enter or modify support orders containing provisions for payment of uninsured health expenses, health care costs, or insurance premiums which are in addition to and not inconsistent with this section.

(((~~(6)~~))) (12) A parent ordered to provide health insurance coverage ((~~shall~~)) must provide proof of such coverage or proof that such coverage is unavailable within twenty days of the entry of the order to:

(a) The ((~~physical custodian~~)) other parent; or

(b) The department of social and health services if the parent has been notified or ordered to make support payments to the Washington state support registry.

(((~~(7)~~))) (13) Every order requiring a parent to provide health care or insurance coverage ((~~shall~~)) must be entered in compliance with RCW 26.23.050 and be subject to direct enforcement as provided under chapter 26.18 RCW.

(((~~(8) "Health insurance coverage" as used in this section does not include medical assistance provided under chapter 74.09 RCW.~~))) (14) When a parent is providing health insurance coverage at the time the order is entered, the premium shall be included in the worksheets for the calculation of child support under chapter 26.19 RCW.

(15) As used in this section:

(a) "Accessible" means health insurance coverage which provides primary care services to the child or children with reasonable effort by the custodian.

(b) "Cash medical support" means the amount that a parent must pay
to the other parent as a proportionate share of the cost of uninsured
medical expenses, state-financed medical coverage provided by the department under chapter 74.09 RCW, or the cost of health insurance coverage provided by another parent in an amount not to exceed twenty-five percent of the obligated parent's basic support obligation.

(c) "Health insurance coverage" does not include medical assistance
provided under chapter 74.09 RCW.

(d) "Uninsured medical expenses" includes premiums, copays, deductibles, along with other health care costs not covered by insurance.

(e) "Obligated parent" means a parent ordered to provide health insurance coverage for the children.

(f) "Proportionate share" means an amount equal to a parent's percentage share of the combined monthly net income of both parents as computed when determining a parent's child support obligation under chapter 26.19 RCW.

(16) The department of social and health services has rule-making authority to enact rules in compliance with 45 C.F.R. Parts 302, 303, 304, 305, and 308.

Sec. 2. RCW 26.18.170 and 2007 c 143 s 1 are each amended to read as follows:

(1) Whenever a parent ((~~who~~)) has been ordered to provide ((~~health insurance coverage~~)) medical support for a dependent child ((~~fails to provide such coverage or lets it lapse~~)), the department or ((~~a~~)) the other parent may seek enforcement of the ((~~coverage order~~)) medical support as provided under this section.

(a) If the obligated parent provides proof that he or she provides accessible coverage for the child through private insurance, that parent has satisfied his or her obligation to provide health insurance coverage.

(b) If the obligated parent does not provide proof of coverage, either the department or the other parent may take appropriate action as provided in this section to enforce the obligation.

(2) The department may attempt to enforce a parent's requirement to provide health insurance coverage for the dependent child. If health insurance coverage is not available through the parent's employment or union at a cost not to exceed twenty-five percent of the parent's basic support obligation, or as otherwise provided in the support order, the department may enforce any cash medical support obligation ordered to be provided under RCW 26.09.105 or 74.20A.300.

(3) A parent seeking to enforce another parent's cash medical support obligation under RCW 26.09.105 may:

(a) Apply for support enforcement services from the division of child support as provided by rule; or

(b) Take action on his or her own behalf by:

(i) Filing a motion in the underlying superior court action; or

(ii) Initiating an action in superior court to determine the amount owed by the obligated parent, if there is not already an underlying superior court action.

(4)(a) The department may serve a notice of support owed under RCW 26.23.110 on a parent to determine the amount of that parent's cash medical support obligation.

(b) Whether or not the child receives temporary assistance for needy families or medicaid, the department may enforce the responsible parent's cash medical support obligation. When the child receives state-financed medical coverage through the department under chapter 74.09 RCW for which there is an assignment, the department may disburse amounts collected to the custodial parent to be used for the medical costs of the child or the department may retain amounts collected and apply them toward the cost of providing the child's state-financed medical coverage. The department may disregard cash medical support payments in accordance with federal law.

(5)(a) If the ((~~parent's~~)) order to provide health insurance coverage contains language notifying the parent ordered to provide coverage that failure to provide such coverage or proof that such coverage is unavailable may result in direct enforcement of the order and orders payments through, or has been submitted to, the Washington state support registry for enforcement, then the department may, without further notice to the parent, send a national medical support notice pursuant to 42 U.S.C. Sec. 666(a)(19), and sections 401 (e) and (f) of the federal child support and performance incentive act of 1998 to the parent's employer or union. The notice shall be served:

(i) By regular mail;

(ii) In the manner prescribed for the service of a summons in a civil action;

(iii) By certified mail, return receipt requested; or

(iv) By electronic means if there is an agreement between the secretary of the department and the person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States to accept service by electronic means.

(b) The notice shall require the employer or union to enroll the child in the health insurance plan as provided in subsection ((~~(3)~~)) (8) of this section.

(c) The returned part A of the national medical support notice to the division of child support by the employer constitutes proof of service of the notice in the case where the notice was served by regular mail.

((~~(d)~~)) (6) Upon receipt of a national medical support notice from a child support agency operating under Title IV-D of the federal social security act:

(a) The parent's employer or union shall comply with the provisions of the notice, including meeting response time frames and withholding requirements required under part A of the notice;

(b) The parent's employer or union shall also be responsible for complying with forwarding part B of the notice to the child's plan administrator, if required by the notice;

(c) The plan administrator is responsible for complying with the provisions of the notice.

(7) If the parent's order to provide health insurance coverage does not order payments through, and has not been submitted to, the Washington state support registry for enforcement:

((~~(i)~~)) (a) The parent seeking enforcement may, without further notice to the ((~~other~~)) obligated parent, send a certified copy of the order requiring health insurance coverage to the ((~~obligor's~~)) parent's employer or union by certified mail, return receipt requested; and

((~~(ii)~~)) (b) The parent seeking enforcement shall attach a notarized statement to the order declaring that the order is the latest order addressing coverage entered by the court and require the employer or union to enroll the child in the health insurance plan as provided in subsection ((~~(3)~~)) (8) of this section.

((~~(3)~~)) (8) Upon receipt of an order that provides for health insurance coverage:

(a) The parent's employer or union shall answer the party who sent the order within twenty days and confirm that the child:

(i) Has been enrolled in the health insurance plan;

(ii) Will be enrolled; or

(iii) Cannot be covered, stating the reasons why such coverage cannot be provided;

(b) The employer or union shall withhold any required premium from the parent's income or wages;

(c) If more than one plan is offered by the employer or union, and each plan may be extended to cover the child, then the child shall be enrolled in the parent's plan. If the parent's plan does not provide coverage which is accessible to the child, the child shall be enrolled in the least expensive plan otherwise available to the parent;

(d) The employer or union shall provide information about the name of the health insurance coverage provider or issuer and the extent of coverage available to the parent and shall make available any necessary claim forms or enrollment membership cards.

((~~(4) Upon receipt of a national medical support notice from a child support agency operating under Title IV-D of the federal social security act:~~

~~(a) The parent's employer or union shall comply with the provisions of the notice, including meeting response time frames and withholding requirements required under part A of the notice;~~

~~(b) The parent's employer or union shall also be responsible for complying with forwarding part B of the notice to the child's plan administrator, if required by the notice;~~

~~(c) The plan administrator shall be responsible for complying with the provisions of the notice.~~

~~(5)~~)) (9) If the order for coverage contains no language notifying either or both parents that failure to provide health insurance coverage or proof that such coverage is unavailable may result in direct enforcement of the order, the department or the parent seeking enforcement may serve a written notice of intent to enforce the order on the ((~~other~~)) obligated parent by certified mail, return receipt requested, or by personal service. If the parent required to provide medical support fails to provide written proof that such coverage has been obtained or applied for or fails to provide proof that such coverage is unavailable within twenty days of service of the notice, the department or the parent seeking enforcement may proceed to enforce the order directly as provided in subsection ((~~(2)~~)) (5) of this section.

((~~(6)~~)) (10) If the parent ordered to provide health insurance coverage elects to provide coverage that will not be accessible to the child because of geographic or other limitations when accessible coverage is otherwise available, the department or the parent seeking enforcement may serve a written notice of intent

to purchase health insurance coverage on the obligated parent ((~~required to provide medical support~~)) by certified mail, return receipt requested. The notice shall also specify the type and cost of coverage.

(((~~(7)~~))) (11) If the department serves a notice under subsection (((~~(6)~~))) (10) of this section the parent required to provide medical support shall, within twenty days of the date of service:

(a) File an application for an adjudicative proceeding; or

(b) Provide written proof to the department that the obligated parent has either applied for, or obtained, coverage accessible to the child.

(((~~(8)~~))) (12) If the parent seeking enforcement serves a notice under subsection (((~~(6)~~))) (10) of this section, within twenty days of the date of service the parent required to provide medical support shall provide written proof to the parent seeking enforcement that ((~~the parent required to provide medical support~~)) he or she has either applied for, or obtained, coverage accessible to the child.

(((~~(9)~~))) (13) If the parent required to provide medical support fails to respond to a notice served under subsection (((~~(6)~~))) (10) of this section to the party who served the notice, the party who served the notice may purchase the health insurance coverage specified in the notice directly.

(a) If the obligated parent is the responsible parent, the amount of the monthly premium shall be added to the support debt and be collectible without further notice.

(b) If the obligated parent is the custodial parent, the responsible parent may file an application for enforcement services and ask the department to establish and enforce the custodial parent's obligation.

(c) The amount of the monthly premium may be collected or accrued until the parent required to provide medical support provides proof of the required coverage.

(((~~(10)~~))) (14) The signature of the parent seeking enforcement or of a department employee shall be a valid authorization to the coverage provider or issuer for purposes of processing a payment to the child's health services provider. An order for health insurance coverage shall operate as an assignment of all benefit rights to the parent seeking enforcement or to the child's health services provider, and in any claim against the coverage provider or issuer, the parent seeking enforcement or his or her assignee shall be subrogated to the rights of the parent obligated to provide medical support for the child. Notwithstanding the provisions of this section regarding assignment of benefits, this section shall not require a health care service contractor authorized under chapter 48.44 RCW or a health maintenance organization authorized under chapter 48.46 RCW to deviate from their contractual provisions and restrictions regarding reimbursement for covered services. If the coverage is terminated, the employer shall mail a notice of termination to the department or the parent seeking enforcement at that parent's last known address within thirty days of the termination date.

(((~~(11)~~))) (15) This section shall not be construed to limit the right of the parents or parties to the support order to bring an action in superior court at any time to enforce, modify, or clarify the original support order.

(((~~(12)~~))) (16) Where a child does not reside in the issuer's service area, an issuer shall cover no less than urgent and emergent care. Where the issuer offers broader coverage, whether by policy or reciprocal agreement, the issuer shall provide such coverage to any child otherwise covered that does not reside in the issuer's service area.

(((~~(13)~~))) (17) If a parent required to provide medical support fails to pay his or her portion, determined under RCW 26.19.080, of any premium, deductible, copay, or uninsured medical expense incurred on behalf of the child, pursuant to a child support order, the department or the ((~~obligee~~)) parent seeking reimbursement of medical expenses may enforce collection of ((~~that~~)) the obligated parent's portion of the deductible, copay, or uninsured medical expense incurred on behalf of the child.

(a) If the department is enforcing the order((~~, the parent required to provide medical support shall have his or her~~)) and the responsible parent is the obligated parent, the obligated parent's portion of the deductible, copay, or uninsured medical expenses incurred on behalf of the child added to the support debt and be collectible without further notice, following the reduction of the expenses to a sum certain either in a court order or by the department, pursuant to RCW 26.23.110.

(((~~(14)~~))) (b) If the custodial parent is the obligated parent, the responsible parent may file an application for enforcement services and ask the department to establish and enforce the custodial parent's obligation.

(18) As used in this section:

(a) "Accessible" means health insurance coverage which provides primary care services to the child or children with reasonable effort by the custodian.

(b) "Cash medical support" means the amount that a parent must pay
to the other parent as a proportionate share of the cost of uninsured
medical expenses, state-financed medical coverage provided by the department under chapter 74.09 RCW, or the cost of health insurance coverage provided by another parent in an amount not to exceed twenty-five percent of the obligated parent's basic support obligation.

(c) "Health insurance coverage" does not include medical assistance
provided under chapter 74.09 RCW.

(d) "Uninsured medical expenses" includes premiums, copays, deductibles, along with other health care costs not covered by insurance.

(e) "Obligated parent" means a parent ordered to provide health insurance coverage for the children.

(19) The department has rule-making authority to enact rules consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec. 666(a)(19) as amended by section 7307 of the deficit reduction act of 2005. Additionally, the department has rule-making authority to implement regulations required under ((~~parts~~)) 45 C.F.R. Parts 302, 303, 304, 305, and 308.

Sec. 3. RCW 26.18.180 and 2000 c 86 s 3 are each amended to read as follows:

(1) ((~~An obligated parent's~~)) The employer or union of a parent who has been ordered to provide health insurance coverage shall be liable for a fine of up to one thousand dollars per occurrence, if the employer or union fails or refuses, within twenty days of receiving the order or notice for health insurance coverage to:

(a) Promptly enroll the ((~~obligated~~)) parent's child in the health insurance plan; or

(b) Make a written answer to the person or entity who sent the order or notice for health insurance coverage stating that the child:

(i) Will be enrolled in the next available open enrollment period; or

(ii) Cannot be covered and explaining the reasons why coverage cannot be provided.

(2) Liability may be established and the fine may be collected by the office of support enforcement under chapter 74.20A or 26.23 RCW using any of the remedies contained in those chapters.

(3) Any employer or union who enrolls a child in a health insurance plan in compliance with chapter 26.18 RCW shall be exempt from liability resulting from such enrollment.

Sec. 4. RCW 26.23.050 and 2007 c 143 s 3 are each amended to read as follows:

(1) If the division of child support is providing support enforcement services under RCW 26.23.045, or if a party is applying for support enforcement services by signing the application form on the bottom of the support order, the superior court shall include in all court orders that establish or modify a support obligation:

(a) A provision that orders and directs the responsible parent to make all support payments to the Washington state support registry;

(b) A statement that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the responsible parent at any time after entry of the court order, unless:

(i) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding and that withholding should be delayed until a payment is past due; or

(ii) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement;

(c) A statement that the receiving parent might be required to submit an accounting of how the support, including any cash medical support, is being spent to benefit the child;

(d) A statement that any parent required to provide health insurance coverage for the child or children covered by the order must notify the division of child support and the other parent when the coverage terminates; and

((~~(d)~~)) (e) A statement that the responsible parent's privileges to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the parent is not in compliance with a support order as provided in RCW 74.20A.320.

As used in this subsection and subsection (3) of this section, "good cause not to require immediate income withholding" means a written determination of why implementing immediate wage withholding would not be in the child's best interests and, in modification cases, proof of timely payment of previously ordered support.

(2) In all other cases not under subsection (1) of this section, the court may order the responsible parent to make payments directly to the person entitled to receive the payments, to the Washington state support registry, or may order that payments be made in accordance with an alternate arrangement agreed upon by the parties.

(a) The superior court shall include in all orders under this subsection that establish or modify a support obligation:

(i) A statement that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the responsible parent at any time after entry of the court order, unless:

(A) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding and that withholding should be delayed until a payment is past due; or

(B) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement; ((~~and~~))

(ii) A statement that the receiving parent may be required to submit an accounting of how the support is being spent to benefit the child;

(iii) A statement that any parent required to provide health insurance coverage for the child or children covered by the order must notify the division of child support and the other parent when the coverage terminates; and

(iv) A statement that a parent seeking to enforce the obligation to provide health insurance coverage may:

(A) File a motion in the underlying superior court action; or

(B) If there is not already an underlying superior court action, initiate an action in the superior court.

As used in this subsection, "good cause not to require immediate income withholding" is any reason that the court finds appropriate.

(b) The superior court may order immediate or delayed income withholding as follows:

(i) Immediate income withholding may be ordered if the responsible parent has earnings. If immediate income withholding is ordered under this subsection, all support payments shall be paid to the Washington state support registry. The superior court shall issue a mandatory wage assignment order as set forth in chapter 26.18 RCW when the support order is signed by the court. The parent entitled to receive the transfer payment is responsible for serving the employer with the order and for its enforcement as set forth in chapter 26.18 RCW.

(ii) If immediate income withholding is not ordered, the court shall require that income withholding be delayed until a payment is past due. The support order shall contain a statement that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the responsible parent, after a payment is past due.

(c) If a mandatory wage withholding order under chapter 26.18 RCW is issued under this subsection and the division of child support provides support enforcement services under RCW 26.23.045, the existing wage withholding assignment is prospectively superseded upon the division of child support's subsequent service of an income withholding notice.

(3) The office of administrative hearings and the department of social and health services shall require that all support obligations established as administrative orders include a provision which orders and directs that the responsible parent shall make all support payments to the Washington state support registry. All administrative orders shall also state that the responsible parent's privileges to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the parent is not in compliance with a support order as provided in RCW 74.20A.320. All administrative orders shall also state that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state without further notice to the responsible parent at any time after entry of the order, unless:

(a) One of the parties demonstrates, and the presiding officer finds, that there is good cause not to require immediate income withholding; or

(b) The parties reach a written agreement that is approved by the presiding officer that provides for an alternate agreement.

(4) If the support order does not include the provision ordering and directing that all payments be made to the Washington state support registry and a statement that

withholding action may be taken against wages, earnings, assets, or benefits if a support payment is past due or at any time after the entry of the order, or that a parent's licensing privileges may not be renewed, or may be suspended, the division of child support may serve a notice on the responsible parent stating such requirements and authorizations. Service may be by personal service or any form of mail requiring a return receipt.

(5) Every support order shall state:

(a) The address where the support payment is to be sent;

(b) That withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the responsible parent at any time after entry of a support order, unless:

(i) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding; or

(ii) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement;

(c) The income of the parties, if known, or that their income is unknown and the income upon which the support award is based;

(d) The support award as a sum certain amount;

(e) The specific day or date on which the support payment is due;

(f) The names and ages of the dependent children;

(g) A provision requiring both the responsible parent and the custodial parent to keep the Washington state support registry informed of whether he or she has access to health insurance coverage at reasonable cost and, if so, the health insurance policy information;

(h) That either or both the responsible parent and the custodial parent shall be obligated to provide ((~~health insurance coverage~~)) medical support for his or her child through health insurance coverage if:

(i) The obligated parent provides accessible coverage for the child through private insurance; or

(ii) Coverage that can be extended to cover the child is or becomes available to the parent through employment or is union-related; or

(iii) In the absence of such coverage, through an additional sum certain amount, as a cash medical support obligation as provided under RCW 26.09.105;

(i) That a parent providing health insurance coverage must notify both the division of child support and the other parent when coverage terminates;

(j) That if proof of health insurance coverage or proof that the coverage is unavailable is not provided within twenty days, the parent seeking enforcement or the department may seek direct enforcement of the coverage through the employer or union of the parent required to provide medical support without further notice to the parent as provided under chapter 26.18 RCW;

((~~(i)~~)) (k) The reasons for not ordering health insurance coverage if the order fails to require such coverage;

((~~(k)~~)) (l) That the responsible parent's privileges to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the parent is not in compliance with a support order as provided in RCW 74.20A.320;

((~~(l)~~)) (m) That each parent must:

(i) Promptly file with the court and update as necessary the confidential information form required by subsection (7) of this section; and

(ii) Provide the state case registry and update as necessary the information required by subsection (7) of this section; and

((~~(m)~~)) (n) That parties to administrative support orders shall provide to the state case registry and update as necessary their residential addresses and the address of the responsible parent's employer. The division of child support may adopt rules that govern the collection of parties' current residence and mailing addresses, telephone numbers, dates of birth, social security numbers, the names of the children, social security numbers of the children, dates of birth of the children, driver's license numbers, and the names, addresses, and telephone numbers of the parties' employers to enforce an administrative support order. The division of child support shall not release this information if the division of child support determines that there is reason to believe that release of the information may result in physical or emotional harm to the party or to the child, or a restraining order or protective order is in effect to protect one party from the other party.

(6) After the responsible parent has been ordered or notified to make payments to the Washington state support registry under this section, the responsible parent shall be fully responsible for making all payments to the Washington state support registry and shall be subject to payroll deduction or other income-withholding action. The responsible parent shall not be entitled to credit against a support obligation for any payments made to a person or agency other than to the Washington state support registry except as provided under RCW 74.20.101. A civil action may be brought by the payor to recover payments made to persons or agencies who have received and retained support moneys paid contrary to the provisions of this section.

(7) All petitioners and parties to all court actions under chapters 26.09, 26.10, 26.12, 26.18, 26.21A, 26.23, 26.26, and 26.27 RCW shall complete to the best of their knowledge a verified and signed confidential information form or equivalent that provides the parties' current residence and mailing addresses, telephone numbers, dates of birth, social security numbers, driver's license numbers, and the names, addresses, and telephone numbers of the parties' employers. The clerk of the court shall not accept petitions, except in parentage actions initiated by the state, orders of child support, decrees of dissolution, or paternity orders for filing in such actions unless accompanied by the confidential information form or equivalent, or unless the confidential information form or equivalent is already on file with the court clerk. In lieu of or in addition to requiring the parties to complete a separate confidential information form, the clerk may collect the information in electronic form. The clerk of the court shall transmit the confidential information form or its data to the division of child support with a copy of the order of child support or paternity order, and may provide copies of the confidential information form or its data and any related findings, decrees, parenting plans, orders, or other documents to the state administrative agency that administers Title IV-A, IV-D, IV-E, or XIX of the federal social security act. In state initiated paternity actions, the parties adjudicated the parents of the child or children shall complete the confidential information form or equivalent or the state's attorney of record may complete that form to the best of the attorney's knowledge.

(8) The department has rule-making authority to enact rules consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec. 666(a)(19) as amended by section 7307 of the deficit reduction act of 2005. Additionally, the department has rule-making authority to implement regulations required under ((~~parts~~)) 45 C.F.R. Parts 302, 303, 304, 305, and 308.

Sec. 5. RCW 26.23.110 and 2007 c 143 s 4 are each amended to read as follows:

(1) The department may serve a notice of support owed on a responsible parent when a support order:

(a) Does not state the current and future support obligation as a fixed dollar amount;

(b) Contains an escalation clause or adjustment provision for which additional information not contained in the support order is needed to determine the fixed dollar amount of the support debt or the fixed dollar amount of the current and future support obligation, or both; or

(c) Provides that the responsible parent is responsible for paying for a portion of uninsured medical costs, copayments, and/or deductibles incurred on behalf of the child, but does not reduce the costs to a fixed dollar amount.

(2) The department may serve a notice of support owed on a parent who has been designated to pay per a support order a portion of uninsured medical costs, copayments, or deductibles incurred on behalf of the child, but only when the support order does not reduce the costs to a fixed dollar amount.

(3) The department may serve a notice of support owed to determine a parent's cash medical support obligation as defined in RCW 26.09.105, if the support order does not set a fixed dollar amount for the cash medical support obligation.

(4) The notice of support owed shall facilitate enforcement of the support order and implement and effectuate the terms of the support order, rather than modify those terms. When the office of support enforcement issues a notice of support owed, the office shall inform the payee under the support order.

((~~(4)~~)) (5) The notice of support owed shall be served on a responsible parent by personal service or any form of mailing requiring a return receipt. The notice shall be served on the applicant or recipient of services by first-class mail to the last known address. The notice of support owed shall contain an initial finding of the fixed dollar amount of current and future support obligation that should be paid or the fixed dollar amount of the support debt owed under the support order, or both.

((~~(5)~~)) (6) A parent who objects to the fixed dollar amounts stated in the notice of support owed has twenty days from the date of the service of the notice of support owed to file an application for an adjudicative proceeding or initiate an action in superior court.

((~~(6)~~)) (7) The notice of support owed shall state that the parent may:

(a) File an application for an adjudicative proceeding governed by chapter 34.05 RCW, the administrative procedure act, in which the parent will be required to appear and show cause why the fixed dollar amount of support debt or current and future support obligation, or both, stated in the notice of support owed is incorrect and should not be ordered; or

(b) Initiate an action in superior court.

((~~(7)~~)) (8) If either parent does not file an application for an adjudicative proceeding or initiate an action in superior court, the fixed dollar amount of current and future support obligation or support debt, or both, stated in the notice of support owed shall become final and subject to collection action.

((~~(8)~~)) (9) If an adjudicative proceeding is requested, the department shall mail a copy of the notice of adjudicative proceeding to the parties.

((~~(9)~~)) (10) If either parent does not initiate an action in superior court, and serve notice of the action on the department and the other party to the support order within the twenty-day period, the parent shall be deemed to have made an election of remedies and shall be required to exhaust administrative remedies under this chapter with judicial review available as provided for in RCW 34.05.510 through 34.05.598.

((~~(10)~~)) (11) An adjudicative order entered in accordance with this section shall state the basis, rationale, or formula upon which the fixed dollar amounts established in the adjudicative order were based. The fixed dollar amount of current and future support obligation or the amount of the support debt, or both, determined under this section shall be subject to collection under this chapter and other applicable state statutes.

((~~(11)~~)) (12) The department shall also provide for:

(a) An annual review of the support order if either the office of support enforcement or the parent requests such a review; and

(b) A late adjudicative proceeding if the parent fails to file an application for an adjudicative proceeding in a timely manner under this section.

((~~(12)~~)) (13) If an annual review or late adjudicative proceeding is requested under subsection ((~~(11)~~)) (12) of this section, the department shall mail a copy of the notice of adjudicative proceeding to the parties' last known address.

((~~(13)~~)) (14) The department has rule-making authority to enact rules consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec. 666(a)(19) as amended by section 7307 of the deficit reduction act of 2005. Additionally, the department has rule-making authority to implement regulations required under ((~~parts~~)) 45 C.F.R. Parts 302, 303, 304, 305, and 308.

Sec. 6. RCW 74.20A.300 and 1994 c 230 s 22 are each amended to read as follows:

(1) Whenever a support order is entered or modified under this chapter, the department shall require ((~~the responsible~~)) either or both parents to ((~~maintain or provide health insurance coverage~~)) provide medical support for any dependent child, in the nature of health insurance coverage or cash medical support, as provided under RCW 26.09.105.

(2) "Health insurance coverage" as used in this section does not include medical assistance provided under chapter 74.09 RCW.

(3) A parent ordered to provide health insurance coverage shall provide proof of such coverage or proof that such coverage is unavailable to the department within twenty days of the entry of the order.

(4) A parent required to provide health insurance coverage must notify the department and the other parent when coverage terminates.

(5) Every order requiring a parent to provide health insurance coverage shall be entered in compliance with RCW 26.23.050 and be subject to direct enforcement as provided under chapter 26.18 RCW.

Sec. 7. RCW 74.20A.055 and 2007 c 143 s 8 are each amended to read as follows:

(1) The secretary may, if there is no order that establishes the responsible parent's support obligation or specifically relieves the responsible parent of a support obligation or pursuant to an establishment of paternity under chapter 26.26 RCW, serve on the responsible parent or parents and custodial parent a notice and finding of financial responsibility requiring the parents to appear and show cause in an adjudicative proceeding why the finding of responsibility and/or the amount thereof is incorrect, should not be finally ordered, but should be rescinded or modified. This notice and finding shall relate to the support debt accrued and/or accruing under this chapter and/or RCW 26.16.205, including periodic payments to be made in the future. The hearing shall be held pursuant to this section, chapter 34.05 RCW, the Administrative Procedure Act, and the rules of the department. A custodian who has physical custody

of a child has the same rights that a custodial parent has under this section.

(2) The notice and finding of financial responsibility shall be served in the same manner prescribed for the service of a summons in a civil action or may be served on the responsible parent by certified mail, return receipt requested. The receipt shall be prima facie evidence of service. The notice shall be served upon the debtor within sixty days from the date the state assumes responsibility for the support of the dependent child or children on whose behalf support is sought. If the notice is not served within sixty days from such date, the department shall lose the right to reimbursement of payments made after the sixty-day period and before the date of notification: PROVIDED, That if the department exercises reasonable efforts to locate the debtor and is unable to do so the entire sixty-day period is tolled until such time as the debtor can be located. The notice may be served upon the custodial parent who is the nonassistance applicant or public assistance recipient by first-class mail to the last known address. If the custodial parent is not the nonassistance applicant or public assistance recipient, service shall be in the same manner as for the responsible parent.

(3) The notice and finding of financial responsibility shall set forth the amount the department has determined the responsible parent owes, the support debt accrued and/or accruing, and periodic payments to be made in the future. The notice and finding shall also include:

(a) A statement of the name of the custodial parent and the name of the child or children for whom support is sought;

(b) A statement of the amount of periodic future support payments as to which financial responsibility is alleged;

(c) A statement that the responsible parent or custodial parent may object to all or any part of the notice and finding, and file an application for an adjudicative proceeding to show cause why the terms set forth in the notice should not be ordered;

(d) A statement that, if neither the responsible parent nor the custodial parent files in a timely fashion an application for an adjudicative proceeding, the support debt and payments stated in the notice and finding, including periodic support payments in the future, shall be assessed and determined and ordered by the department and that this debt and amounts due under the notice shall be subject to collection action;

(e) A statement that the property of the debtor, without further advance notice or hearing, will be subject to lien and foreclosure, distraint, seizure and sale, order to withhold and deliver, notice of payroll deduction or other collection action to satisfy the debt and enforce the support obligation established under the notice;

(f) A statement that either or both parents are responsible for providing health insurance for his or her child if coverage that can be extended to cover the child either through private health insurance which is accessible to the child or through coverage that is or becomes available to the parent through employment or is union-related, or for paying a cash medical support obligation if no such coverage is available, as provided under RCW 26.09.105.

(4) A responsible parent or custodial parent who objects to the notice and finding of financial responsibility may file an application for an adjudicative proceeding within twenty days of the date of service of the notice or thereafter as provided under this subsection.

(a) If the responsible parent or custodial parent files the application within twenty days, the office of administrative hearings shall schedule an adjudicative proceeding to hear the parent's or parents' objection and determine the support obligation for the entire period covered by the notice and finding of financial responsibility. The filing of the application stays collection action pending the entry of a final administrative order;

(b) If both the responsible parent and the custodial parent fail to file an application within twenty days, the notice and finding shall become a final administrative order. The amounts for current and future support and the support debt stated in the notice are final and subject to collection, except as provided under (c) and (d) of this subsection;

(c) If the responsible parent or custodial parent files the application more than twenty days after, but within one year of the date of service, the office of administrative hearings shall schedule an adjudicative proceeding to hear the parent's or parents' objection and determine the support obligation for the entire period covered by the notice and finding of financial responsibility. The filing of the application does not stay further collection action, pending the entry of a final administrative order, and does not affect any prior collection action;

(d) If the responsible parent or custodial parent files the application more than one year after the date of service, the office of administrative hearings shall schedule an adjudicative proceeding at which the parent who requested the late hearing must show good cause for failure to file a timely application. The filing of the application does not stay future collection action and does not affect prior collection action:

(i) If the presiding officer finds that good cause exists, the presiding officer shall proceed to hear the parent's objection to the notice and determine the support obligation;

(ii) If the presiding officer finds that good cause does not exist, the presiding officer shall treat the application as a petition for prospective modification of the amount for current and future support established under the notice and finding. In the modification proceeding, the presiding officer shall set current and future support under chapter 26.19 RCW. The petitioning parent need show neither good cause nor a substantial change of circumstances to justify modification of current and future support;

(e) If the responsible parent's support obligation was based upon imputed median net income, the grant standard, or the family need standard, the division of child support may file an application for adjudicative proceeding more than twenty days after the date of service of the notice. The office of administrative hearings shall schedule an adjudicative proceeding and provide notice of the hearing to the responsible parent and the custodial parent. The presiding officer shall determine the support obligation for the entire period covered by the notice, based upon credible evidence presented by the division of child support, the responsible parent, or the custodial parent, or may determine that the support obligation set forth in the notice is correct. The division of child support demonstrates good cause by showing that the responsible parent's support obligation was based upon imputed median net income, the grant standard, or the family need standard. The filing of the application by the division of child support does not stay further collection action, pending the entry of a final administrative order, and does not affect any prior collection action.

(f) The department shall retain and/or shall not refund support money collected more than twenty days after the date of service of the notice. Money withheld as the result of collection action shall be delivered to the department. The department shall distribute such money, as provided in published rules.

(5) If an application for an adjudicative proceeding is filed, the presiding or reviewing officer shall determine the past

liability and responsibility, if any, of the alleged responsible parent and shall also determine the amount of periodic payments to be made in the future, which amount is not limited by the amount of any public assistance payment made to or for the benefit of the child. If deviating from the child support schedule in making these determinations, the presiding or reviewing officer shall apply the standards contained in the child support schedule and enter written findings of fact supporting the deviation.

(6) If either the responsible parent or the custodial parent fails to attend or participate in the hearing or other stage of an adjudicative proceeding, upon a showing of valid service, the presiding officer shall enter an order of default against each party who did not appear and may enter an administrative order declaring the support debt and payment provisions stated in the notice and finding of financial responsibility to be assessed and determined and subject to collection action. The parties who appear may enter an agreed settlement or consent order, which may be different than the terms of the department's notice. Any party who appears may choose to proceed to the hearing, after the conclusion of which the presiding officer or reviewing officer may enter an order that is different than the terms stated in the notice, if the obligation is supported by credible evidence presented by any party at the hearing.

(7) The final administrative order establishing liability and/or future periodic support payments shall be superseded upon entry of a superior court order for support to the extent the superior court order is inconsistent with the administrative order.

(8) Debts determined pursuant to this section, accrued and not paid, are subject to collection action under this chapter without further necessity of action by a presiding or reviewing officer.

(9) The department has rule-making authority to enact rules consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec. 666(a)(19) as amended by section 7307 of the deficit reduction act of 2005. Additionally, the department has rule-making authority to implement regulations required under ((~~parts~~)) 45 C.F.R. Parts 302, 303, 304, 305, and 308.

Sec. 8. RCW 74.20A.056 and 2007 c 143 s 9 are each amended to read as follows:

(1) If an alleged father has signed an affidavit acknowledging paternity which has been filed with the state registrar of vital statistics before July 1, 1997, the division of child support may serve a notice and finding of parental responsibility on him and the custodial parent. Procedures for and responsibility resulting from acknowledgments filed after July 1, 1997, are in subsections (8) and (9) of this section. Service of the notice shall be in the same manner as a summons in a civil action or by certified mail, return receipt requested, on the alleged father. The custodial parent shall be served by first-class mail to the last known address. If the custodial parent is not the nonassistance applicant or public assistance recipient, service shall be in the same manner as for the responsible parent. The notice shall have attached to it a copy of the affidavit or certification of birth record information advising of the existence of a filed affidavit, provided by the state registrar of vital statistics, and shall state that:

(a) Either or both parents are responsible for providing health insurance for their child either through private health insurance which is accessible to the child or through coverage that if coverage that can be extended to cover the child is or becomes available to the parent through employment or is union-related, or for paying a cash medical support obligation if no such coverage is available, as provided under RCW 26.09.105;

(b) The alleged father or custodial parent may file an application for an adjudicative proceeding at which they both will be required to appear and show cause why the amount stated in the notice as to support is incorrect and should not be ordered;

(c) An alleged father or mother, if she is also the custodial parent, may request that a blood or genetic test be administered to determine whether such test would exclude him from being a natural parent and, if not excluded, may subsequently request that the division of child support initiate an action in superior court to determine the existence of the parent-child relationship; and

(d) If neither the alleged father nor the custodial parent requests that a blood or genetic test be administered or files an application for an adjudicative proceeding, the amount of support stated in the notice and finding of parental responsibility shall become final, subject only to a subsequent determination under RCW 26.26.500 through 26.26.630 that the parent-child relationship does not exist.

(2) An alleged father or custodial parent who objects to the amount of support requested in the notice may file an application for an adjudicative proceeding up to twenty days after the date the notice was served. An application for an adjudicative proceeding may be filed within one year of service of the notice and finding of parental responsibility without the necessity for a showing of good cause or upon a showing of good cause thereafter. An adjudicative proceeding under this section shall be pursuant to RCW 74.20A.055. The only issues shall be the amount of the accrued debt, the amount of the current and future support obligation, and the reimbursement of the costs of blood or genetic tests if advanced by the department. A custodian who is not the parent of a child and who has physical custody of a child has the same notice and hearing rights that a custodial parent has under this section.

(3) If the application for an adjudicative proceeding is filed within twenty days of service of the notice, collection action shall be stayed pending a final decision by the department. If no application is filed within twenty days:

(a) The amounts in the notice shall become final and the debt created therein shall be subject to collection action; and

(b) Any amounts so collected shall neither be refunded nor returned if the alleged father is later found not to be a responsible parent.

(4) An alleged father or the mother, if she is also the custodial parent, may request that a blood or genetic test be administered at any time. The request for testing shall be in writing, or as the department may specify by rule, and served on the division of child support. If a request for testing is made, the department shall arrange for the test and, pursuant to rules adopted by the department, may advance the cost of such testing. The department shall mail a copy of the test results by certified mail, return receipt requested, to the alleged father's and mother's, if she is also the custodial parent, last known address.

(5) If the test excludes the alleged father from being a natural parent, the division of child support shall file a copy of the results with the state registrar of vital statistics and shall dismiss any pending administrative collection proceedings based upon the affidavit in issue. The state registrar of vital statistics shall remove the alleged father's name from the birth certificate and change the child's surname to be the same as the mother's maiden name as stated on the birth certificate, or any other name which the mother may select.

(6) The alleged father or mother, if she is also the custodial parent, may, within twenty days after the date of receipt of the test results, request the division of child support to initiate an action under RCW 26.26.500 through 26.26.630 to determine the existence of the parent-child relationship. If the division of child support initiates a superior court action at the request of the alleged father or mother and the decision of the court is that the alleged father is a natural parent, the parent who requested the test shall be liable for court costs incurred.

(7) If the alleged father or mother, if she is also the custodial parent, does not request the division of child support to initiate a superior court action, or fails to appear and cooperate with blood or genetic testing, the notice of parental responsibility shall become final for all intents and purposes and may be overturned only by a subsequent superior court order entered under RCW 26.26.500 through 26.26.630.

(8)(a) Subsections (1) through (7) of this section do not apply to acknowledgments of paternity filed with the state registrar of vital statistics after July 1, 1997.

(b) If an acknowledged father has signed an acknowledgment of paternity that has been filed with the state registrar of vital statistics after July 1, 1997:

(i) The division of child support may serve a notice and finding of financial responsibility under RCW 74.20A.055 based on the acknowledgment. The division of child support shall attach a copy of the acknowledgment or certification of the birth record information advising of the existence of a filed acknowledgment of paternity to the notice;

(ii) The notice shall include a statement that the acknowledged father or any other signatory may commence a proceeding in court to rescind or challenge the acknowledgment or denial of paternity under RCW 26.26.330 and 26.26.335;

(iii) A statement that either or both parents are responsible for providing health insurance for his or her child if coverage that can be extended to cover the child is or becomes available to the parent through employment or is union-related as provided under RCW 26.09.105; and

(iv) The party commencing the action to rescind or challenge the acknowledgment or denial must serve notice on the division of child support and the office of the prosecuting attorney in the county in which the proceeding is commenced. Commencement of a proceeding to rescind or challenge the acknowledgment or denial stays the establishment of the notice and finding of financial responsibility, if the notice has not yet become a final order.

(c) If neither the acknowledged father nor the other party to the notice files an application for an adjudicative proceeding or the signatories to the acknowledgment or denial do not commence a proceeding to rescind or challenge the acknowledgment of paternity, the amount of support stated in the notice and finding of financial responsibility becomes final, subject only to a subsequent determination under RCW 26.26.500 through 26.26.630 that the parent-child relationship does not exist. The division of child support does not refund nor return any amounts collected under a notice that becomes final under this section or RCW 74.20A.055, even if a court later determines that the acknowledgment is void.

(d) An acknowledged father or other party to the notice who objects to the amount of support requested in the notice may file an application for an adjudicative proceeding up to twenty days after the date the notice was served. An application for an adjudicative proceeding may be filed within one year of service of the notice and finding of parental responsibility without the necessity for a showing of good cause or upon a showing of good cause thereafter. An adjudicative proceeding under this section shall be pursuant to RCW 74.20A.055. The only issues shall be the amount of the accrued debt and the amount of the current and future support obligation.

(i) If the application for an adjudicative proceeding is filed within twenty days of service of the notice, collection action shall be stayed pending a final decision by the department.

(ii) If the application for an adjudicative proceeding is not filed within twenty days of the service of the notice, any amounts collected under the notice shall be neither refunded nor returned if the alleged father is later found not to be a responsible parent.

(e) If neither the acknowledged father nor the custodial parent requests an adjudicative proceeding, or if no timely action is brought to rescind or challenge the acknowledgment or denial after service of the notice, the notice of financial responsibility becomes final for all intents and purposes and may be overturned only by a subsequent superior court order entered under RCW 26.26.500 through 26.26.630.

(9) Acknowledgments of paternity that are filed after July 1, 1997, are subject to requirements of chapters 26.26, the uniform parentage act, and 70.58 RCW.

(10) The department and the department of health may adopt rules to implement the requirements under this section.

(11) The department has rule-making authority to enact rules consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec. 666(a)(19) as amended by section 7307 of the deficit reduction act of 2005. Additionally, the department has rule-making authority to implement regulations required under ((~~parts~~)) 45 C.F.R. Parts 302, 303, 304, 305, and 308.

Sec. 9. RCW 74.20A.059 and 1991 c 367 s 47 are each amended to read as follows:

(1) The department, the physical custodian, or the responsible parent may petition for a prospective modification of a final administrative order if:

(a) The administrative order has not been superseded by a superior court order; and

(b) There has been a substantial change of circumstances, except as provided under RCW 74.20A.055(4)(d).

(2) An order of child support may be modified one year or more after it has been entered without showing a substantial change of circumstances:

(a) If the order in practice works a severe economic hardship on either party or the child; or

(b) If a party requests an adjustment in an order for child support that was based on guidelines which determined the amount of support according to the child's age, and the child is no longer in the age category on which the current support amount was based; or

(c) If a child is a full-time student and reasonably expected to complete secondary school or the equivalent level of vocational or technical training before the child becomes nineteen years of age upon a finding that there is a need to extend support beyond the eighteenth birthday.

(3) An order may be modified without showing a substantial change of circumstances if the requested modification is to:

(a) Require ((~~health insurance coverage~~)) medical support under RCW 26.09.105 for a child covered by the order; or

(b) Modify an existing order for health insurance coverage.

(4) Support orders may be adjusted once every twenty-four months based upon changes in the income of the parents without a showing of substantially changed circumstances.

(5)(a) All administrative orders entered on, before, or after September 1, 1991, may be modified based upon changes in the child support schedule established in chapter 26.19 RCW without a substantial change of circumstances. The petition may

be filed based on changes in the child support schedule after twelve months has expired from the entry of the administrative order or the most recent modification order setting child support, whichever is later. However, if a party is granted relief under this provision, twenty-four months must pass before another petition for modification may be filed pursuant to subsection (4) of this section.

(b) If, pursuant to subsection (4) of this section or (a) of this subsection, the order modifies a child support obligation by more than thirty percent and the change would cause significant hardship, the change may be implemented in two equal increments, one at the time of the entry of the order and the second six months from the entry of the order. Twenty-four months must pass following the second change before a petition for modification under subsection (4) of this section may be filed.

(6) An increase in the wage or salary of the parent or custodian who is receiving the support transfer payments ((~~as defined in section 24 of this act~~)) is not a substantial change in circumstances for purposes of modification under subsection (1)(b) of this section. An obligor's voluntary unemployment or voluntary underemployment, by itself, is not a substantial change of circumstances.

(7) The department shall file the petition and a supporting affidavit with the secretary or the secretary's designee when the department petitions for modification.

(8) The responsible parent or the physical custodian shall follow the procedures in this chapter for filing an application for an adjudicative proceeding to petition for modification.

(9) Upon the filing of a proper petition or application, the secretary or the secretary's designee shall issue an order directing each party to appear and show cause why the order should not be modified.

(10) If the presiding or reviewing officer finds a modification is appropriate, the officer shall modify the order and set current and future support under chapter 26.19 RCW.

NEW SECTION. **Sec. 10.** This act takes effect October 1, 2009."

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

POINT OF INQUIRY

Senator Roach: "Would Senator Regala yield to a question?

Lt. Governor Owen: "The Senator does not yield."

PERSONAL PRIVILEGE

Senator Roach: "Well, if I can't ask the question so I'm not quite sure how to say this. I just was wondering when you are a man and wife and you have medical insurance both people are covered…."

REMARK BY THE PRESIDENT

President Owen: "Senator Roach, that is not a point of personal privilege. You may speak if you wish."

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Substitute House Bill No. 1845.

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

MOTION

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

On page 1, line 1 of the title, after "obligations;" strike the remainder of the title and insert "amending RCW 26.09.105, 26.18.170, 26.18.180, 26.23.050, 26.23.110, 74.20A.300, 74.20A.055, 74.20A.056, and 74.20A.059; and providing an effective date."

MOTION

On motion of Senator Regala, the rules were suspended, Substitute House Bill No. 1845 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 Regala spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1845 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1845 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 Becker, Benton, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator Berkey

SUBSTITUTE HOUSE BILL NO. 1845 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. 2214, by House Committee on Transportation (originally sponsored by Representative Simpson)

Concerning the reasonable costs of airport operators financing consolidated rental car facilities and common use transportation equipment and facilities. Revised for 1st Substitute: Concerning airport operators financing consolidated rental car facilities and common use transportation equipment and facilities.

The measure was read the second time.

MOTION

On motion of Senator Jarrett, the rules were suspended, Substitute House Bill No. 2214 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2214.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2214 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Berkey

SUBSTITUTE HOUSE BILL NO. 2214, 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 10:31 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:49 a.m. by President Owen.

SECOND READING

HOUSE BILL NO. 1826, by Representatives Rodne, Pedersen and Santos

Addressing the proceeds from foreclosure sales.

The measure was read the second time.

MOTION

On motion of Senator Hobbs, the rules were suspended, House Bill No. 1826 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

MOTION

On motion of Senator Brandland, Senator Zarelli was excused.

MOTION

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

The President declared the question before the Senate to be the final passage of House Bill No. 1826.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1826 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Berkey, Kline and Zarelli

HOUSE BILL NO. 1826, 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. 1311, by Representatives Kirby, Bailey, Morrell, Sullivan, Kenney, Simpson and Nelson

Regulating reverse mortgage lending practices.

The measure was read the second time.

MOTION

On motion of Senator Hobbs, the rules were suspended, Engrossed House Bill No. 1311 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1311.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1311 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Berkey and Zarelli

ENGROSSED HOUSE BILL NO. 1311, 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 11:57 a.m., on motion of Senator Eide, the Senate was recessed until 1:30 p.m.

AFTERNOON SESSION

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

SECOND READING

ENGROSSED HOUSE BILL NO. 1530, by Representatives Kirby and Bailey

Creating the guaranteed asset protection waiver model act.

The measure was read the second time.

MOTION

Senator Hobbs moved that the following committee striking amendment by the Committee on Financial Institutions, Housing & Insurance be adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The purpose of this chapter is to provide a framework within which guaranteed asset protection waivers are defined and may be offered within this state.

(2) This chapter does not apply to:

(a) An insurance policy offered by an insurer under this title; or

(b) A federally regulated financial institution operating under 12 C.F.R. Part 37 of the office of the comptroller of the currency regulations or credit unions operating under 12 C.F.R. 721.3(g) of the national credit union administration regulations, or state regulated banks, credit unions, financial institutions operating pursuant to chapter 63.14 RCW, and consumer loan companies operating pursuant to chapter 31.04 RCW. However, an exempt federal or state chartered bank, credit union, or financial institution may elect to offer a guaranteed asset protection waiver that complies with sections 1, 2, and 4 through 7 of this act.

(3) Guaranteed asset protection waivers are governed under this chapter and are exempt from all other provisions of this title, except RCW 48.02.060 and 48.02.080, chapter 48.04 RCW, and as provided in this chapter.

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

(1) "Administrator" means a person, other than an insurer or creditor that performs administrative or operational functions pursuant to guaranteed asset protection waiver programs.

(2) "Borrower" means a debtor, retail buyer, or lessee, under a finance agreement, or a person who receives a loan or enters into a retail installment contract to purchase or lease a motor vehicle or vessel under chapter 63.14 RCW.

(3) "Creditor" means:

(a) The lender in a loan or credit transaction;

(b) The lessor in a lease transaction;

(c) Any retail seller of motor vehicles that provides credit to retail buyers of motor vehicles provided the seller complies with this chapter;

(d) The seller in commercial retail installment transactions; or

(e) The assignees of any creditor under this subsection to whom the credit obligation is payable.

(4) "Finance agreement" means a loan, lease, or retail installment sales contract for the purchase or lease of a motor vehicle.

(5) "Free look period" means the period of time from the effective date of the waiver until the date the borrower may cancel the waiver without penalty, fees, or costs to the borrower. This period of time must not be shorter than thirty days.

(6) "Guaranteed asset protection waiver" or "waiver" means a contractual agreement wherein a creditor agrees for a separate charge to cancel or waive all or part of amounts due that creditor on a borrower's finance agreement with that creditor in the event of a total physical damage loss or unrecovered theft of the motor vehicle, which agreement must be part of, or a separate addendum to, the finance agreement.

(7) "Insurer" means an insurance company licensed, registered, or otherwise authorized to do business under the insurance laws of this state.

(8) "Motor vehicle" means self-propelled or towed vehicles designed for personal or commercial use, including but not limited to automobiles, trucks, motorcycles, recreational vehicles, all-terrain vehicles, snowmobiles, campers, boats, personal watercraft, and motorcycle, boat, camper, and personal watercraft trailers.

(9) "Motor vehicle dealer" has the same meaning as "vehicle dealer" in RCW 46.70.011.

(10) "Person" includes an individual, company, association, organization, partnership, business trust, corporation, and every form of legal entity.

(11) "Retail buyer" means a person who buys or agrees to buy a motor vehicle or obtain motor vehicle services or agrees to have motor vehicle services rendered or furnished from a retail seller.

(12) "Retail seller" means a person engaged in the business of selling motor vehicles or motor vehicle services to retail buyers.

(13) "Unregistered marketers" means persons who offer for sale and sell guaranteed asset protection waivers who are not registered under this chapter and who are not otherwise exempt under this chapter.

NEW SECTION. **Sec. 3.** (1) This chapter applies only to guaranteed asset protection waivers for financing of motor vehicles as defined in this chapter. Any person or entity must register with the commissioner before marketing, offering for sale or selling a guaranteed asset protection waiver, and before acting as an obligor for a guaranteed asset protection waiver, in this state. However, a retail seller of motor vehicles that assigns more than eighty-five percent of guaranteed asset protection waiver agreements within thirty days of such agreements' effective date, or an insurer authorized to transact such insurance business in this state, are not required to register pursuant to this section. Failure of any retail seller of motor vehicles to assign one hundred percent of guaranteed asset protection waiver agreements within forty-five days of such agreements' effective date will result in that retail seller being required to comply with the registration requirements of this chapter.

(2) No person may market, offer for sale, or sell a guaranteed asset protection waiver, or act as an obligor on a guaranteed asset protection waiver in this state without a registration as provided in this chapter, except as set forth in subsection (1) of this section.

(3) The application for registration must include the following:

(a) The applicant's name, address, and telephone number;

(b) The identities of the applicant's executive officers or other officers directly responsible for the waiver business;

(c) An application fee of two hundred fifty dollars, which shall be deposited into the guaranteed asset protection waiver account;

(d) A copy filed by the applicant with the commissioner of the waivers the applicant intends to offer in this state;

(e) A list of all unregistered marketers of guaranteed asset protection waivers on which the applicant will be the obligor;

(f) Such additional information as the commissioner may reasonably require.

(4) Once registered, the applicant shall keep the information required for registration current by reporting changes within

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

NEW SECTION. **Sec. 4.** (1) Waivers may be offered, sold, or provided to borrowers in this state in compliance with this chapter.

(2) Waivers may, at the option of the creditor, be sold for a single payment or may be offered with a monthly or periodic payment option.

(3) Notwithstanding any other provision of law, any cost to the borrower for a guaranteed asset protection waiver entered into in compliance with the truth in lending act (15 U.S.C. Sec. 1601 et seq.) and its implementing regulations, as amended, must be separately stated and is not to be considered a finance charge or interest.

(4) Nothing in this chapter prohibits a person who is registered, or is otherwise exempt from registration or exempt from this chapter, from insuring its waiver obligation through the purchase of a contractual liability policy or other insurance policy issued by an insurer authorized to transact such insurance in this state.

(5) The waiver remains a part of the finance agreement upon the assignment, sale, or transfer of the finance agreement by the creditor.

(6) Neither the extension of credit, the term of credit, nor the term of the related motor vehicle sale or lease may be conditioned upon the purchase of a waiver.

(7) Any creditor that offers a waiver must report the sale of, and forward funds received on, all waivers to the designated party, if any, as prescribed in any applicable administrative services agreement, contractual liability policy, other insurance policy, or other specified program documents.

(8) Funds received or held by a creditor or administrator and belonging to an insurer, creditor, or administrator, under the terms of a written agreement, must be held by that creditor or administrator in a fiduciary capacity.

(9) If the guaranteed asset protection waiver is assigned, the name and address of the assignee must be mailed to the borrower within thirty days of the assignment. If at any time the name and address provided to the borrower by the initial creditor are no longer the valid point of contact to apply for waiver benefits, written notice will be mailed to the borrower within thirty days of the change stating the new name and address of the person or entity the borrower should contact to apply for waiver benefits. No waiver may be assigned to an entity that is not registered pursuant to this chapter, unless such entity is exempt from registration or unless the commissioner specifically authorizes such assignment.

(10) No person shall knowingly make, publish, or disseminate any false, deceptive, or misleading representation or advertising in the conduct of, or relative to, waiver business. Nor shall any person make, issue, or circulate, or cause to be made, issued, or circulated any misrepresentation of the terms or benefits of any waiver.

(11) A person or entity engaged in the guaranteed asset protection waiver business in this state may not refuse to sell or issue any guaranteed asset protection waiver because of the sex, marital status, or sexual orientation as defined in RCW 49.60.040, or the presence of any sensory, mental, or physical disability of the borrower or prospective borrower. The type of benefits, or any term, rate, condition, or type of coverage may not be restricted, modified, excluded, increased, or reduced on the basis of the presence of any sensory, mental, or physical disability of the borrower or prospective borrower.

NEW SECTION. **Sec. 5.** (1) Contractual liability or other insurance policies insuring waivers must state the obligation of the insurer to reimburse or pay to the creditor any sums the creditor is legally obligated to waive under the waivers issued by the creditor and purchased or held by the borrower. Contractual liability insurance or other insurance policies insuring waivers must not be purchased by the creditor as part of, or a rider to, vendor single-interest or collateral protection coverages as defined in RCW 48.22.110(4).

(2) Coverage under a contractual liability or other insurance policy insuring a waiver must also cover any subsequent assignee upon the assignment, sale, or transfer of the finance agreement.

(3) Coverage under a contractual liability or other insurance policy insuring a waiver must remain in effect unless canceled or terminated in compliance with applicable insurance laws of this state.

(4) The cancellation or termination of a contractual liability or other insurance policy must not reduce the insurer's responsibility for waivers issued by the creditor prior to the date of cancellation or termination and for which a premium has been received by the insurer.

NEW SECTION. **Sec. 6.** Guaranteed asset protection waivers must disclose, as applicable, in writing and in clear, understandable language that is easy to read, the following:

(1) The name and address of the initial creditor and the borrower at the time of sale, and the identity of any administrator if different from the creditor;

(2) The purchase price and the terms of the waiver, including without limitation, the requirements for protection, conditions, or exclusions associated with the waiver;

(3) That the borrower may cancel the waiver within a free look period as specified in the waiver, and will be entitled to a full refund of the purchase price, so long as no benefits have been provided; or in the event benefits have been provided, the borrower may receive a full or partial refund pursuant to the terms of the waiver;

(4) The procedure the borrower must follow, if any, to obtain waiver benefits under the terms and conditions of the waiver, including a telephone number and address where the borrower may apply for waiver benefits;

(5) Whether or not the waiver is cancellable after the free look period and the conditions under which it may be canceled or terminated including the procedures for requesting any refund due;

(6) That in order to receive any refund due in the event of a borrower's cancellation of the waiver agreement or early termination of the finance agreement after the free look period of the waiver, the borrower, in accordance with terms of the waiver, must provide a written request to cancel to the creditor, administrator, or such other party, within ninety days of the occurrence of the event terminating the finance agreement;

(7) The methodology for calculating any refund of the unearned purchase price of the waiver due, in the event of cancellation of the waiver or early termination of the finance agreement;

(8) That any refund of the purchase price for a waiver that was included in the financing of the motor vehicle or vessel may be applied by the creditor as a reduction of the overall amount owed under the finance agreement, rather than applying the refund strictly to the purchase price of the waiver. This disclosure must be conspicuously presented prior to the purchase of the waiver;

(9) That neither the extension of credit, the terms of the credit, nor the terms of the related motor vehicle sale or lease, may be conditioned upon the purchase of the waiver;

(10) That the guaranteed asset protection waiver is not credit insurance, nor does it eliminate the borrower's obligation to insure the motor vehicle as provided by laws of this state. Purchasing a guaranteed asset protection waiver does not eliminate the borrower's rights and obligations under the vendor single-interest and collateral protection coverage laws of this state.

NEW SECTION. **Sec. 7.** (1) Guaranteed asset protection waiver agreements may be cancellable or noncancellable after the free look period. Waivers must provide that if a borrower cancels a waiver within the free look period, the borrower will be entitled to a full refund of the purchase price, so long as no benefits have been provided; or in the event benefits have been provided, the borrower may receive a full or partial refund pursuant to the terms of the waiver.

(2) In the event of a borrower's cancellation of the waiver or early termination of the finance agreement, after the agreement has been in effect beyond the free look period, the borrower may be entitled to a refund of any unearned portion of the purchase price of the waiver unless the waiver provides otherwise. In order to receive a refund, the borrower, in accordance with any applicable terms of the waiver, must provide a written request to the creditor, administrator, or other party, within ninety days of the event terminating the finance agreement.

(3) If the cancellation of a waiver occurs as a result of a default under the finance agreement or the repossession of the motor vehicle associated with the finance agreement, any refund due may be paid directly to the creditor or administrator and applied as set forth in subsection (4) of this section.

(4) Any cancellation refund under this section may be applied by the creditor as a reduction of the overall amount owed under the finance agreement, if the cost of the guaranteed asset protection waiver was included in the financing of the motor vehicle or vessel.

(5) Disclosure of how the refund may be applied by the creditor or administrator must be made in accordance with the provisions of section 6(8) of this act.

NEW SECTION. **Sec. 8.** (1) The commissioner may, subject to chapter 48.04 RCW, take action that is necessary or appropriate to enforce this chapter and to protect guaranteed asset protection waiver holders in this state, which includes:

(a) Suspending, revoking, or refusing to issue the registration of a person or entity if the registrant fails to comply with any provision of this chapter or fails to comply with any proper order or rule of the commissioner; and

(b) After hearing or with the consent of the registrant, and in addition to or in lieu of the suspension, revocation, or refusal to issue any registration, imposing a penalty of not more than two thousand dollars for each violation of this chapter.

(2) The commissioner may adopt rules to implement this chapter.

NEW SECTION. **Sec. 9.** (1) Any person who markets, offers for sale or sells a guaranteed asset protection waiver, or acts as an obligor for a guaranteed asset protection waiver without a registration, unless otherwise exempt from registration or exempt from this chapter, is acting in violation of this section and is subject to the provisions of section 8 of this act. In addition, any person who knowingly violates this section is guilty of a class B felony punishable under chapter 9A.20 RCW.

(2) Any criminal penalty imposed under this section is in addition to, and not in lieu of, any other civil or administrative penalty or sanction otherwise authorized under state law.

(3) If the commissioner has cause to believe that any person has violated this section, the commissioner may assess a civil penalty of not more than twenty-five thousand dollars for each violation, after providing notice and an opportunity for a hearing in accordance with chapter 48.04 RCW. Upon failure to pay this civil penalty when due, the attorney general may bring a civil action on behalf of the commissioner to recover the unpaid penalty.

(4) A person or entity that should have been registered at the time of the sale of a waiver who was not so registered pursuant to this chapter is personally liable for performance of the waiver. Any waiver sold by a person or entity that should have been registered at the time of the sale is voidable, except at the instance of the person or entity who sold the waiver.

NEW SECTION. **Sec. 10.** The guaranteed asset protection waiver account is created in the custody of the state treasurer. The fees and fines collected under this chapter must be deposited into the account. Expenditures from the account may be used to implement, administer, and enforce this chapter. Only the commissioner or the commissioner'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. 11. RCW 63.14.010 and 2003 c 368 s 2 are each amended to read as follows:

In this chapter, unless the context otherwise requires:

(1) "Goods" means all chattels personal when purchased primarily for personal, family, or household use and not for commercial or business use, but not including money or, except as provided in the next sentence, things in action. The term includes but is not limited to merchandise certificates or coupons, issued by a retail seller, to be used in their face amount in lieu of cash in exchange for goods or services sold by such a seller and goods which, at the time of sale or subsequently, are to be so affixed to real property as to become a part thereof, whether or not severable therefrom;

(2) "Lender credit card" means a card or device under a lender credit card agreement pursuant to which the issuer gives to a cardholder residing in this state the privilege of obtaining credit from the issuer or other persons in purchasing or leasing property or services, obtaining loans, or otherwise, and the issuer of which is not: (a) Principally engaged in the business of selling goods; or (b) a financial institution;

(3) "Lender credit card agreement" means an agreement entered into or performed in this state prescribing the terms of retail installment transactions pursuant to which the issuer may, with the buyer's consent, purchase or acquire one or more retail sellers' indebtedness of the buyer under a sales slip or memorandum evidencing the purchase, lease, loan, or otherwise to be paid in accordance with the agreement. The issuer of a lender credit card agreement shall not be principally engaged in the business of selling goods or be a financial institution;

(4) "Financial institution" means any bank or trust company, mutual savings bank, credit union, or savings and loan association organized pursuant to the laws of any one of the United States of America or the United States of America, or the laws of a foreign country if also qualified to conduct business in any one of the United States of America or pursuant to the laws of the United States of America;

(5) "Services" means work, labor, or services of any kind when purchased primarily for personal, family, or household use and not for commercial or business use whether or not furnished in connection with the delivery, installation, servicing, repair, or improvement of goods and includes repairs, alterations, or improvements upon or in connection with real property, but does not include services for which the price charged is required by law to be determined or approved by or to be filed, subject to

approval or disapproval, with the United States or any state, or any department, division, agency, officer, or official of either as in the case of transportation services;

(6) "Retail buyer" or "buyer" means a person who buys or agrees to buy goods or obtain services or agrees to have services rendered or furnished, from a retail seller;

(7) "Retail seller" or "seller" means a person engaged in the business of selling goods or services to retail buyers;

(8) "Retail installment transaction" means any transaction in which a retail buyer purchases goods or services from a retail seller pursuant to a retail installment contract, a retail charge agreement, or a lender credit card agreement, as defined in this section, which provides for a service charge, as defined in this section, and under which the buyer agrees to pay the unpaid principal balance in one or more installments or which provides for no service charge and under which the buyer agrees to pay the unpaid balance in more than four installments;

(9) "Retail installment contract" or "contract" means a contract, other than a retail charge agreement, a lender credit card agreement, or an instrument reflecting a sale made pursuant thereto, entered into or performed in this state for a retail installment transaction. The term "retail installment contract" may include a chattel mortgage, a conditional sale contract, and a contract in the form of a bailment or a lease if the bailee or lessee contracts to pay as compensation for their use a sum substantially equivalent to or in excess of the value of the goods sold and if it is agreed that the bailee or lessee is bound to become, or for no other or a merely nominal consideration, has the option of becoming the owner of the goods upon full compliance with the provisions of the bailment or lease. The term "retail installment contract" does not include: (a) A "consumer lease," heretofore or hereafter entered into, as defined in RCW 63.10.020; (b) a lease which would constitute such "consumer lease" but for the fact that: (i) It was entered into before April 29, 1983; (ii) the lessee was not a natural person; (iii) the lease was not primarily for personal, family, or household purposes; or (iv) the total contractual obligations exceeded twenty-five thousand dollars; or (c) a lease-purchase agreement under chapter 63.19 RCW;

(10) "Retail charge agreement," "revolving charge agreement," or "charge agreement" means an agreement between a retail buyer and a retail seller that is entered into or performed in this state and that prescribes the terms of retail installment transactions with one or more sellers which may be made thereunder from time to time and under the terms of which a service charge, as defined in this section, is to be computed in relation to the buyer's unpaid balance from time to time;

(11) "Service charge" however denominated or expressed, means the amount which is paid or payable for the privilege of purchasing goods or services to be paid for by the buyer in installments over a period of time. It does not include the amount, if any, charged for insurance premiums, delinquency charges, attorneys' fees, court costs, any vehicle dealer administrative fee under RCW 46.12.042, any vehicle dealer documentary service fee under RCW 46.70.180(2), or official fees;

(12) "Sale price" means the price for which the seller would have sold or furnished to the buyer, and the buyer would have bought or obtained from the seller, the goods or services which are the subject matter of a retail installment transaction. The sale price may include any taxes, registration and license fees, the cost of a guaranteed asset protection waiver, any vehicle dealer administrative fee, any vehicle dealer documentary service fee, and charges for transferring vehicle titles, delivery, installation, servicing, repairs, alterations, or improvements;

(13) "Official fees" means the amount of the fees prescribed by law and payable to the state, county, or other governmental agency for filing, recording, or otherwise perfecting, and releasing or satisfying, a retained title, lien, or other security interest created by a retail installment transaction;

(14) "Time balance" means the principal balance plus the service charge;

(15) "Principal balance" means the sale price of the goods or services which are the subject matter of a retail installment contract less the amount of the buyer's down payment in money or goods or both, plus the amounts, if any, included therein, if a separate identified charge is made therefor and stated in the contract, for insurance, any vehicle dealer administrative fee, any vehicle dealer documentary service fee, and official fees; and the amount actually paid or to be paid by the retail seller pursuant to an agreement with the buyer to discharge a security interest or lien on like-kind goods traded in or lease interest in the circumstance of a lease for like goods being terminated in conjunction with the sale pursuant to a retail installment contract;

(16) "Person" means an individual, partnership, joint venture, corporation, association, or any other group, however organized;

(17) "Rate" means the percentage which, when multiplied times the outstanding balance for each month or other installment period, yields the amount of the service charge for such month or period.

NEW SECTION. **Sec. 12.** 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. 13.** This act is applicable to all guaranteed asset protection waiver agreements entered into on or after January 1, 2010.

NEW SECTION. **Sec. 14.** Sections 1 through 10, 12, and 13 of this act constitute a new chapter in Title 48 RCW."

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Financial Institutions, Housing & Insurance to Engrossed House Bill No. 1530.

The motion by Senator Hobbs 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 "act;" strike the remainder of the title and insert "amending RCW 63.14.010; adding a new chapter to Title 48 RCW; and prescribing penalties."

MOTION

On motion of Senator Hobbs, the rules were suspended, Engrossed House Bill No. 1530 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 Hobbs and Benton spoke in favor of passage of the bill.

MOTION

On motion of Senator Brandland, Senator Pflug was

excused.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1530 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1530 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 41; Nays, 2; Absent, 4; Excused, 2.

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

Voting nay: Senators Holmquist and Stevens

Absent: Senators Brown, Haugen, Jacobsen and Kline

Excused: Senators Berkey and Pflug

ENGROSSED HOUSE BILL NO. 1530 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Senators Brown, Haugen and Kline were excused.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1565, by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Kirby, Kelley, Williams and Simpson)

Expanding the scope of business continuity plans for domestic insurers. Revised for 1st Substitute: Addressing business continuity plans for domestic insurers.

The measure was read the second time.

MOTION

On motion of Senator Hobbs, the rules were suspended, Substitute House Bill No. 1565 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator Hobbs, Senator Jacobsen was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1565.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1565 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Berkey, Jacobsen and Pflug

SUBSTITUTE HOUSE BILL NO. 1565, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1007,
HOUSE BILL NO. 1030,
HOUSE BILL NO. 1121,
SUBSTITUTE HOUSE BILL NO. 1128,
HOUSE BILL NO. 1155,
HOUSE BILL NO. 1196,
HOUSE BILL NO. 1197,
SUBSTITUTE HOUSE BILL NO. 1202,
SUBSTITUTE HOUSE BILL NO. 1205,
SUBSTITUTE HOUSE BILL NO. 1261,
SUBSTITUTE HOUSE BILL NO. 1308,
HOUSE BILL NO. 1338,
HOUSE BILL NO. 1366,
SUBSTITUTE HOUSE BILL NO. 1388,
HOUSE BILL NO. 1394,
HOUSE BILL NO. 1475,
HOUSE BILL NO. 1536,
HOUSE BILL NO. 1678,
HOUSE BILL NO. 1682,
SUBSTITUTE HOUSE BILL NO. 1730,
SUBSTITUTE HOUSE BILL NO. 1765,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1926,
HOUSE BILL NO. 1997,
SUBSTITUTE HOUSE BILL NO. 2042,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2126,

SECOND READING

ENGROSSED HOUSE BILL NO. 1566, by Representatives Kirby, Williams and Simpson

Granting the insurance commissioner certain authority when the governor declares a state of emergency.

The measure was read the second time.

MOTION

Senator Hobbs moved that the following committee striking amendment by the Committee on Financial Institutions, Housing & Insurance be adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 48.02.060 and 1947 c 79 s .02.06 are each amended to read as follows:

(1) The commissioner ((~~shall have~~)) has the authority expressly conferred upon him or her by or reasonably implied from the provisions of this code.

(2) The commissioner shall execute his or her duties and shall enforce the provisions of this code.

(3) The commissioner may:

(a) Make reasonable rules ((~~and regulations~~)) for effectuating any provision of this code, except those relating to his or her election, qualifications, or compensation. ((~~No such~~)) Rules ((~~and regulations shall be~~)) are not effective prior to their being filed for public inspection in the commissioner's office.

(b) Conduct investigations to determine whether any person has violated any provision of this code.

(c) Conduct examinations, investigations, hearings, in addition to those specifically provided for, useful and proper for the efficient administration of any provision of this code.

(4) When the governor proclaims a state of emergency under RCW 43.06.010(12), the commissioner may issue an order that addresses any or all of the following matters related to insurance policies issued in this state:

(a) Reporting requirements for claims;

(b) Grace periods for payment of insurance premiums and performance of other duties by insureds;

(c) Temporary postponement of cancellations and renewals; and

(d) Medical coverage to ensure access to care.

(5) An order by the commissioner under subsection (4) of this section may remain effective for not more than sixty days unless the commissioner extends the termination date for the order for an additional period of not more than thirty days. The commissioner may extend the order if, in the commissioner's judgment, the circumstances warrant an extension. An order of the commissioner under subsection (4) of this section is not effective after the related state of emergency is terminated by proclamation of the governor under RCW 43.06.210. The order must specify, by line of insurance:

(a) The geographic areas in which the order applies, which must be within but may be less extensive than the geographic area specified in the governor's proclamation of a state of emergency and must be specific according to an appropriate means of delineation, such as the United States postal service zip codes or other appropriate means; and

(b) The date on which the order becomes effective and the date on which the order terminates.

(6) The commissioner may adopt rules that establish general criteria for orders issued under subsection (4) of this section and may adopt emergency rules applicable to a specific proclamation of a state of emergency by the governor.

(7) The rule-making authority set forth in subsection (6) of this section does not limit or affect the rule-making authority otherwise granted to the commissioner by law."

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Financial Institutions, Housing & Insurance to Engrossed House Bill No. 1566.

The motion by Senator Hobbs 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 "emergency;" strike the remainder of the title and insert "and amending RCW 48.02.060."

MOTION

On motion of Senator Hobbs, the rules were suspended, Engrossed House Bill No. 1566 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 Hobbs and Benton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1566 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1566 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 0; Excused, 2.

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

Voting nay: Senators McCaslin and Morton

Excused: Senators Berkey and Jacobsen

ENGROSSED HOUSE BILL NO. 1566 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. 1663, by House Committee on Judiciary (originally sponsored by Representatives Goodman, Springer, Simpson, Roberts, Miloscia, Nelson, Ormsby and Santos)

Creating relocation assistance rights for nontransient residents of hotels, motels, or other places of transient lodging that are shut down by government action.

The measure was read the second time.

MOTION

On motion of Senator Hobbs, the rules were suspended, Substitute House Bill No. 1663 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senator Benton and Carrell spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1663.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1663 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 18; Absent, 0; Excused, 2.

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

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

Excused: Senators Berkey and Jacobsen

SUBSTITUTE HOUSE BILL NO. 1663, 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. 1225, by House Committee on Transportation (originally sponsored by Representatives Liias, Rodne, Upthegrove, Roach, Simpson and Rolfes)

Clarifying the effect of special fuel taxes on publicly owned or operated urban passenger transportation systems.

The measure was read the second time.

MOTION

Senator Jarrett 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 82.38.080 and 2008 c 237 s 1 are each amended to read as follows:

(1) There is exempted from the tax imposed by this chapter, the use of fuel for:

(a) Street and highway construction and maintenance purposes in motor vehicles owned and operated by the state of Washington, or any county or municipality;

(b) Publicly owned firefighting equipment;

(c) Special mobile equipment as defined in RCW 46.04.552;

(d) Power pumping units or other power take-off equipment of any motor vehicle which is accurately measured by metering devices that have been specifically approved by the department or which is established by any of the following formulae:

(i) Pumping propane, or fuel or heating oils or milk picked up from a farm or dairy farm storage tank by a power take-off unit on a delivery truck, at a rate determined by the department: PROVIDED, That claimant when presenting his or her claim to the department in accordance with this chapter, shall provide to the claim, invoices of propane, or fuel or heating oil delivered, or such other appropriate information as may be required by the department to substantiate his or her claim;

(ii) Operating a power take-off unit on a cement mixer truck or a load compactor on a garbage truck at the rate of twenty-five percent of the total gallons of fuel used in such a truck; or

(iii) The department is authorized to establish by rule additional formulae for determining fuel usage when operating other types of equipment by means of power take-off units when direct measurement of the fuel used is not feasible. The department is also authorized to adopt rules regarding the usage of on board computers for the production of records required by this chapter;

(e) Motor vehicles owned and operated by the United States government;

(f) Heating purposes;

(g) Moving a motor vehicle on a public highway between two pieces of private property when said moving is incidental to the primary use of the motor vehicle;

(h) Transportation services for persons with special transportation needs by a private, nonprofit transportation provider regulated under chapter 81.66 RCW;

(i) Vehicle refrigeration units, mixing units, or other equipment powered by separate motors from separate fuel tanks;

(j) The operation of a motor vehicle as a part of or incidental to logging operations upon a highway under federal jurisdiction within the boundaries of a federal area if the federal government requires a fee for the privilege of operating the motor vehicle upon the highway, the proceeds of which are reserved for constructing or maintaining roads in the federal area, or requires maintenance or construction work to be performed on the highway for the privilege of operating the motor vehicle on the highway; and

(k) Waste vegetable oil as defined under RCW 82.08.0205 if the oil is used to manufacture biodiesel.

(2) There is exempted from the tax imposed by this chapter the removal or entry of special fuel under the following circumstances and conditions:

(a) If it is the removal from a terminal or refinery of, or the entry or sale of, a special fuel if all of the following apply:

(i) The person otherwise liable for the tax is a licensee other than a dyed special fuel user or international fuel tax agreement licensee;

(ii) For a removal from a terminal, the terminal is a licensed terminal; and

(iii) The special fuel satisfies the dyeing and marking requirements of this chapter;

(b) If it is an entry or removal from a terminal or refinery of taxable special fuel transferred to a refinery or terminal and the persons involved, including the terminal operator, are licensed; and

(c)(i) If it is a special fuel that, under contract of sale, is shipped to a point outside this state by a supplier by means of any of the following:

(A) Facilities operated by the supplier;

(B) Delivery by the supplier to a carrier, customs broker, or forwarding agent, whether hired by the purchaser or not, for shipment to the out-of-state point;

(C) Delivery by the supplier to a vessel clearing from port of this state for a port outside this state and actually exported from this state in the vessel.

(ii) For purposes of this subsection (2)(c):

(A) "Carrier" means a person or firm engaged in the business of transporting for compensation property owned by other persons, and includes both common and contract carriers; and

(B) "Forwarding agent" means a person or firm engaged in the business of preparing property for shipment or arranging for its shipment.

(3) Notwithstanding any provision of law to the contrary, every privately owned urban passenger transportation system and carriers as defined by chapters 81.68 and 81.70 RCW shall be exempt from the provisions of this chapter requiring the payment of special fuel taxes. For the purposes of this section "privately owned urban passenger transportation system" means every privately owned transportation system((~~, publicly or privately owned,~~)) having as its principal source of revenue the income from transporting persons for compensation by means of motor vehicles ((~~and/or~~)) or trackless trolleys, each having a seating capacity for over fifteen persons over prescribed routes in such a manner that the routes of such motor vehicles ((~~and/or~~)) or trackless trolleys, either alone or in conjunction with routes of other such motor vehicles ((~~and/or~~)) or trackless trolleys subject to routing by the same transportation system,

shall not extend for a distance exceeding twenty-five road miles beyond the corporate limits of the county in which the original starting points of such motor vehicles are located: PROVIDED, That no refunds or credits shall be granted on special fuel used by any privately owned urban transportation vehicle, or vehicle operated pursuant to chapters 81.68 and 81.70 RCW, on any trip where any portion of ((~~said~~)) the trip is more than twenty-five road miles beyond the corporate limits of the county in which ((~~said~~)) the trip originated.

(4) Every publicly owned and operated urban passenger transportation system is exempt from the provisions of this chapter that require the payment of special fuel taxes. For the purposes of this subsection, "publicly owned and operated urban passenger transportation systems" include public transportation benefit areas under chapter 36.57A RCW, metropolitan municipal corporations under chapter 36.56 RCW, city-owned transit systems under chapter 35.58 RCW, county public transportation authorities under chapter 36.57 RCW, unincorporated transportation benefit areas under chapter 36.57 RCW, and regional transit authorities under chapter 81.112 RCW."

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

MOTION

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

On page 3, line 20 of the amendment, after "(3)" insert "(a)"

On page 4, line 4 of the amendment, strike "(4)" and insert "(b)"

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Haugen on page 3, line 20 to the committee striking amendment to Substitute House Bill No. 1225.

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation as amended to Substitute House Bill No. 1225.

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

MOTION

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

On page 1, line 2 of the title, after "systems;" strike the remainder of the title and insert "and amending RCW 82.38.080."

MOTION

On motion of Senator Jarrett, the rules were suspended, Substitute House Bill No. 1225 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senator Benton spoke against passage of the bill.

MOTION

On motion of Senator Marr, Senators McAuliffe, Oemig and Regala were excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1225 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1225 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 32; Nays, 12; Absent, 0; Excused, 5.

Voting yea: Senators Becker, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McDermott, Murray, Prentice, Pridemore, Ranker, Rockefeller, Sheldon, Shin, Swecker and Tom

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

Excused: Senators Berkey, Jacobsen, McAuliffe, Oemig and Regala

SUBSTITUTE HOUSE BILL NO. 1225 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. 1939, by House Committee on Transportation (originally sponsored by Representatives Takko, Armstrong, Morris, Springer, Eddy, Wood, Warnick, Ericksen, Sells, Kenney, Simpson, Moeller, Ormsby and Wallace)

Concerning vehicle dealer documentary service fees.

The measure was read the second time.

MOTION

On motion of Senator Jarrett, the rules were suspended, Engrossed Substitute House Bill No. 1939 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Jarrett spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1939.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1939 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 3; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McCaslin, McDermott, Morton, Murray, Parlette, Pflug,

Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Carrell, Holmquist and Sheldon

Excused: Senators Berkey, Jacobsen, McAuliffe and Oemig

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1939, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2095, by House Committee on Transportation (originally sponsored by Representatives Orwall, Finn, Upthegrove, Simpson, Rodne and Quall)

Clarifying the permitting, training, and licensing process for driver training schools.

The measure was read the second time.

MOTION

On motion of Senator Jarrett, the rules were suspended, Substitute House Bill No. 2095 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Jarrett spoke in favor of passage of the bill.

MOTION

On motion of Senator Delvin, Senator McCaslin was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2095.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2095 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

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

Excused: Senators Berkey, Jacobsen, McAuliffe, McCaslin and Oemig

SUBSTITUTE HOUSE BILL NO. 2095, 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. 1119, by House Committee on Judiciary (originally sponsored by Representatives Pedersen, Rodne, Goodman and Kelley)

Concerning the management of funds held by nonprofit institutions.

The measure was read the second time.

PARLIAMENTARY INQUIRY

Senator Kline: "Mr. President, a point of parliamentary inquiry before I begin. There were two amendments. One is number 266, which is the one I believe that the reader just read. I do want to advance that one. However, there is another committee amendment which I'm about to move that we not adopt. I want to make sure I get the right one here. It's not number 266."

REPLY BY THE PRESIDENT

President Owen: "You're on the committee amendment."

MOTION

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

On page 2, line 9 after "purpose;" strike "and" and insert "or"

The President declared the question before the Senate to be the motion by Senator Kline to not adopt the committee amendment by the Committee on Judiciary to Substitute House Bill No. 1119.

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

PARLIAMENTARY INQUIRY

Senator Kline: "Mr. President, again a point of parliamentary inquiry. I'm about to move amendment number 266."

REPLY BY THE PRESIDENT

President Owen: "There's another committee amendment Senator, Sir."

MOTION

Senator Kline: "Ok, I move that amendment number 266 be adopted."

REPLY BY THE PRESIDENT

President Owen: "That's not the amendment that we're on Senator. We must deal with the committee amendment first. There were two committee amendments. This is the second committee amendment. The striking amendment."

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.** SHORT TITLE. This act may be known and cited as the uniform prudent management of institutional funds act.

NEW SECTION. **Sec. 2.** DEFINITIONS. In this chapter:

(1) "Charitable purpose" means the relief of poverty, the advancement of education or religion, the promotion of health, the promotion of a governmental purpose, or any other purpose the achievement of which is beneficial to the community.

(2) "Endowment fund" means an institutional fund or part thereof that, under the terms of a gift instrument, is not wholly

expendable by the institution on a current basis. "Endowment fund" does not include assets that an institution designates as an endowment fund for its own use.

(3) "Gift instrument" means a record or records, including an institutional solicitation, under which property is granted to, transferred to, or held by an institution as an institutional fund.

(4) "Institution" means:

(a) A person, other than an individual, organized and operated exclusively for charitable purposes;

(b) A government or governmental subdivision, agency, or instrumentality, to the extent that it holds funds exclusively for a charitable purpose; or

(c) A trust that had both charitable and noncharitable interests, after all noncharitable interests have terminated.

(5) "Institutional fund" means a fund held by an institution exclusively for charitable purposes. "Institutional fund" does not include:

(a) Program-related assets;

(b) A fund held for an institution by a trustee that is not an institution; or

(c) A fund in which a beneficiary that is not an institution has an interest, other than an interest that could arise upon violation or failure of the purposes of the fund.

(6) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(7) "Program-related asset" means an asset held by an institution primarily to accomplish a charitable purpose of the institution and not primarily for investment.

(8) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

NEW SECTION. **Sec. 3.** STANDARD OF CONDUCT IN MANAGING AND INVESTING INSTITUTIONAL FUND. (1) Subject to the intent of a donor expressed in a gift instrument, an institution, in managing and investing an institutional fund, shall consider the charitable purposes of the institution and the purposes of the institutional fund.

(2) In addition to complying with the duty of loyalty imposed by law other than this chapter, each person responsible for managing and investing an institutional fund shall manage and invest the fund in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

(3) In managing and investing an institutional fund, an institution:

(a) May incur only costs that are appropriate and reasonable in relation to the assets, the purposes of the institution, and the skills available to the institution; and

(b) Shall make a reasonable effort to verify facts relevant to the management and investment of the fund.

(4) An institution may pool two or more institutional funds for purposes of management and investment.

(5) Except as otherwise provided by a gift instrument, the following rules apply:

(a) In managing and investing an institutional fund, the following factors, if relevant, must be considered:

(i) General economic conditions;

(ii) The possible effect of inflation or deflation;

(iii) The expected tax consequences, if any, of investment decisions or strategies;

(iv) The role that each investment or course of action plays within the overall investment portfolio of the fund;

(v) The expected total return from income and the appreciation of investments;

(vi) Other resources of the institution;

(vii) The needs of the institution and the institutional fund to make distributions and to preserve capital; and

(viii) An asset's special relationship or special value, if any, to the charitable purposes of the institution.

(b) Management and investment decisions about an individual asset must be made not in isolation but rather in the context of the institutional fund's portfolio of investments as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the institutional fund and to the institution.

(c) Except as otherwise provided by law, an institution may invest in any kind of property or type of investment consistent with this section.

(d) An institution shall diversify the investments of an institutional fund unless the institution reasonably determines that, because of special circumstances, the purposes of the fund are better served without diversification.

(e) Within a reasonable time after receiving property, an institution shall make and carry out decisions concerning the retention or disposition of the property or to rebalance a portfolio, in order to bring the institutional fund into compliance with the purposes, terms, and distribution requirements of the institution as necessary to meet other circumstances of the institution and the requirements of this chapter.

(f) A person that has special skills or expertise, or is selected in reliance upon the person's representation that the person has special skills or expertise, has a duty to use those skills or that expertise in managing and investing institutional funds.

NEW SECTION. **Sec. 4.** APPROPRIATION FOR EXPENDITURE OR ACCUMULATION OF ENDOWMENT FUND--RULES OF CONSTRUCTION. (1) Subject to the intent of a donor expressed in the gift instrument, an institution may appropriate for expenditure or accumulate so much of an endowment fund as the institution determines is prudent for the uses, benefits, purposes, and duration for which the endowment fund is established. Unless stated otherwise in the gift instrument, the assets in an endowment fund are donor-restricted assets until appropriated for expenditure by the institution. In making a determination to appropriate or accumulate, the institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, and shall consider, if relevant, the following factors:

(a) The duration and preservation of the endowment fund;

(b) The purposes of the institution and the endowment fund;

(c) General economic conditions;

(d) The possible effect of inflation or deflation;

(e) The expected total return from income and the appreciation of investments;

(f) Other resources of the institution; and

(g) The investment policy of the institution.

(2) To limit the authority to appropriate for expenditure or accumulate under subsection (1) of this section, a gift instrument must specifically state the limitation.

(3) Terms in a gift instrument designating a gift as an endowment, or a direction or authorization in the gift instrument to use only "income," "interest," "dividends," or "rents, issues, or profits," or "to preserve the principal intact," or words of similar import:

(a) Create an endowment fund of permanent duration unless other language in the gift instrument limits the duration or purpose of the fund; and

(b) Do not otherwise limit the authority to appropriate for expenditure or accumulate under subsection (1) of this section.

NEW SECTION. **Sec. 5.** DELEGATION OF MANAGEMENT AND INVESTMENT FUNCTIONS. (1) Subject to any specific limitation set forth in a gift instrument or in law other than this chapter, an institution may delegate to an external agent the management and investment of an institutional fund to the extent that an institution could prudently delegate under the circumstances. An institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, in:

(a) Selecting an agent;

(b) Establishing the scope and terms of the delegation, consistent with the purposes of the institution and the institutional fund; and

(c) Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the scope and terms of the delegation.

(2) In performing a delegated function, an agent owes a duty to the institution to exercise reasonable care to comply with the scope and terms of the delegation.

(3) An institution that complies with subsection (1) of this section is not liable for the decisions or actions of an agent to which the function was delegated.

(4) By accepting delegation of a management or investment function from an institution that is subject to the laws of this state, an agent submits to the jurisdiction of the courts of this state in all proceedings arising from or related to the delegation or the performance of the delegated function.

(5) An institution may delegate management and investment functions to its committees, officers, or employees as authorized by law.

NEW SECTION. **Sec. 6.** RELEASE OR MODIFICATION OF RESTRICTIONS ON MANAGEMENT, INVESTMENT, OR PURPOSE. (1) If the donor consents in a record, an institution may release or modify, in whole or in part, a restriction contained in a gift instrument on the management, investment, or purpose of an institutional fund. A release or modification may not allow a fund to be used for a purpose other than a charitable purpose of the institution.

(2) The court, upon application of an institution, may modify a restriction contained in a gift instrument regarding the management or investment of an institutional fund if the restriction has become impracticable or wasteful, if it impairs the management or investment of the fund, or if, because of circumstances not anticipated by the donor, a modification of a restriction will further the purposes of the fund. The institution shall notify the attorney general of the application, and the attorney general must be given an opportunity to be heard. To the extent practicable, any modification must be made in accordance with the donor's probable intention.

(3) If a particular charitable purpose or a restriction contained in a gift instrument on the use of an institutional fund becomes unlawful, impracticable, impossible to achieve, or wasteful, the court, upon application of an institution, may modify the purpose of the fund or the restriction on the use of the fund in a manner consistent with the charitable purposes expressed in the gift instrument. The institution shall notify the attorney general of the application, and the attorney general must be given an opportunity to be heard.

(4) If an institution determines that a restriction contained in a gift instrument on the management, investment, or purpose of an institutional fund is unlawful, impracticable, impossible to achieve, or wasteful, the institution, sixty days after notification to the attorney general, may release or modify the restriction, in whole or part, if:

(a) The institutional fund subject to the restriction has a total value of less than seventy-five thousand dollars. On the first day of July of each year, beginning on July 1, 2011, the dollar limit provided in this subsection (4)(a) shall increase by an amount of two thousand five hundred dollars;

(b) More than twenty years have elapsed since the fund was established; and

(c) The institution uses the property in a manner consistent with the charitable purposes expressed in the gift instrument.

NEW SECTION. **Sec. 7.** REVIEWING COMPLIANCE. Compliance with this chapter is determined in light of the facts and circumstances existing at the time a decision is made or action is taken, and not by hindsight.

NEW SECTION. **Sec. 8.** APPLICATION TO EXISTING INSTITUTIONAL FUNDS. This chapter applies to institutional funds existing on or established after the effective date of this act. As applied to institutional funds existing on the effective date of this act, this chapter governs only decisions made or actions taken on or after the effective date of this act.

NEW SECTION. **Sec. 9.** RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and supersedes the electronic signatures in global and national commerce act (15 U.S.C. Sec. 7001 et seq.), but does not modify, limit, or supersede 15 U.S.C. Sec. 7001(a), or authorize electronic delivery of any of the notices described in 15 U.S.C. Sec. 7003(b).

NEW SECTION. **Sec. 10.** UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

NEW SECTION. **Sec. 11.** CAPTIONS NOT LAW. Captions used in this act are not any part of the law.

NEW SECTION. **Sec. 12.** Sections 1 through 11 of this act constitute a new chapter in Title 24 RCW.

NEW SECTION. **Sec. 13.** The following acts or parts of acts are each repealed:

(1) RCW 24.44.010 (Definitions) and 1973 c 17 s 1;

(2) RCW 24.44.020 (Appropriation of appreciation) and 1973 c 17 s 2;

(3) RCW 24.44.030 (Investment authority) and 1973 c 17 s 3;

(4) RCW 24.44.040 (Delegation of investment management) and 1973 c 17 s 4;

(5) RCW 24.44.050 (Standard of conduct) and 1973 c 17 s 5;

(6) RCW 24.44.060 (Release of restrictions on use or investments) and 1973 c 17 s 6;

(7) RCW 24.44.070 (Uniformity of application and construction) and 1973 c 17 s 8;

(8) RCW 24.44.080 (Short title) and 1973 c 17 s 9;

(9) RCW 24.44.090 (Section headings) and 1973 c 17 s 10; and

(10) RCW 24.44.900 (Severability--1973 c 17) and 1973 c 17 s 7."

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

MOTION

Senator Kline moved that the following amendment by

Senators Kline, Kohl-Welles and McCaslin to the committee striking amendment be adopted.

On page 7, after line 30 of the amendment, insert the following:

"NEW SECTION. **Sec. 14.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

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

The President declared the question before the Senate to be the adoption of the amendment by Senators Kline, Kohl-Welles and McCaslin on page 7, after line 30 to the committee striking amendment to Substitute House Bill No. 1119.

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary as amended to Substitute House Bill No. 1119.

The motion by Senator Kline 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 2 of the title, after "institutions;" strike the remainder of the title and insert "adding a new chapter to Title 24 RCW; and repealing RCW 24.44.010, 24.44.020, 24.44.030, 24.44.040, 24.44.050, 24.44.060, 24.44.070, 24.44.080, 24.44.090, and 24.44.900."

On page 8, line 3 of the title amendment, after "RCW;" strike "and"

On page 8, line 4 of the title amendment, after "24.44.900" insert "; and declaring an emergency"

MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 1119 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1119 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1119 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Berkey, Jacobsen, McAuliffe and Oemig

SUBSTITUTE HOUSE BILL NO. 1119 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. 1445, by House Committee on Ways & Means (originally sponsored by Representatives Simpson, O'Brien, Van De Wege, Goodman, Sullivan, Hunt, Ormsby, Conway and Santos)

Providing benefits to domestic partners under the Washington state patrol retirement system.

The measure was read the second time.

MOTION

Senator Jarrett 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 43.43.120 and 2001 c 329 s 3 are each amended to read as follows:

As used in ((~~the following sections~~)) RCW 43.43.120 through 43.43.320, unless a different meaning is plainly required by the context:

(1) "Retirement system" means the Washington state patrol retirement system.

(2) "Retirement fund" means the Washington state patrol retirement fund.

(3) "State treasurer" means the treasurer of the state of Washington.

(4) "Member" means any person included in the membership of the retirement fund.

(5) "Employee" means any commissioned employee of the Washington state patrol.

(6)(a) "Cadet," for a person who became a member of the retirement system after June 12, 1980, is a person who has passed the Washington state patrol's entry-level oral, written, physical performance, and background examinations and is, thereby, appointed by the chief as a candidate to be a commissioned officer of the Washington state patrol.

(b) "Cadet," for a person who became a member of the retirement system before June 12, 1980, is a trooper cadet, patrol cadet, or employee of like classification, employed for the express purpose of receiving the on-the-job training required for attendance at the state patrol academy and for becoming a commissioned trooper. "Like classification" includes: Radio operators or dispatchers; persons providing security for the governor or legislature; patrolmen; drivers' license examiners; weighmasters; vehicle safety inspectors; central wireless operators; and warehousemen.

(7) "Beneficiary" means any person in receipt of retirement allowance or any other benefit allowed by this chapter.

(8) "Regular interest" means interest compounded annually at such rates as may be determined by the director.

(9) "Retirement board" means the board provided for in this chapter.

(10) "Insurance commissioner" means the insurance commissioner of the state of Washington.

(11) "Lieutenant governor" means the lieutenant governor of the state of Washington.

(12) "Service" shall mean services rendered to the state of Washington or any political subdivisions thereof for which compensation has been paid. Full time employment for seventy

or more hours in any given calendar month shall constitute one month of service. An employee who is reinstated in accordance with RCW 43.43.110 shall suffer no loss of service for the period reinstated subject to the contribution requirements of this chapter. Only months of service shall be counted in the computation of any retirement allowance or other benefit provided for herein. Years of service shall be determined by dividing the total number of months of service by twelve. Any fraction of a year of service as so determined shall be taken into account in the computation of such retirement allowance or benefit.

(13) "Prior service" shall mean all services rendered by a member to the state of Washington, or any of its political subdivisions prior to August 1, 1947, unless such service has been credited in another public retirement or pension system operating in the state of Washington.

(14) "Current service" shall mean all service as a member rendered on or after August 1, 1947.

(15)(a) "Average final salary," for members commissioned prior to January 1, 2003, shall mean the average monthly salary received by a member during the member's last two years of service or any consecutive two-year period of service, whichever is the greater, as an employee of the Washington state patrol; or if the member has less than two years of service, then the average monthly salary received by the member during the member's total years of service.

(b) "Average final salary," for members commissioned on or after January 1, 2003, shall mean the average monthly salary received by a member for the highest consecutive sixty service credit months; or if the member has less than sixty months of service, then the average monthly salary received by the member during the member's total months of service.

(16) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality table as may be adopted and such interest rate as may be determined by the director.

(17) Unless the context expressly indicates otherwise, words importing the masculine gender shall be extended to include the feminine gender and words importing the feminine gender shall be extended to include the masculine gender.

(18) "Director" means the director of the department of retirement systems.

(19) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(20) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(21) "Contributions" means the deduction from the compensation of each member in accordance with the contribution rates established under chapter 41.45 RCW.

(22) "Annual increase" means as of July 1, 1999, seventy-seven cents per month per year of service which amount shall be increased each subsequent July 1st by three percent, rounded to the nearest cent.

(23)(a) "Salary," for members commissioned prior to July 1, 2001, shall exclude any overtime earnings related to RCW 47.46.040, or any voluntary overtime, earned on or after July 1, 2001.

(b) "Salary," for members commissioned on or after July 1, 2001, shall exclude any overtime earnings related to RCW 47.46.040 or any voluntary overtime, lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, holiday pay, or any form of severance pay.

(24) "Plan 2" means the Washington state patrol retirement system plan 2, providing the benefits and funding provisions covering commissioned employees who first become members of the system on or after January 1, 2003.

(25) "Domestic partners" means two adults who have registered as domestic partners under RCW 26.60.020.

Sec. 2. RCW 43.43.260 and 2005 c 64 s 10 are each amended to read as follows:

Upon retirement from service as provided in RCW 43.43.250, a member shall be granted a retirement allowance which shall consist of:

(1) A prior service allowance which shall be equal to two percent of the member's average final salary multiplied by the number of years of prior service rendered by the member.

(2) A current service allowance which shall be equal to two percent of the member's average final salary multiplied by the number of years of service rendered while a member of the retirement system.

(3)(a) Any member commissioned prior to January 1, 2003, with twenty-five years service in the Washington state patrol may have the member's service in the uniformed services credited as a member whether or not the individual left the employ of the Washington state patrol to enter such uniformed services: PROVIDED, That in no instance shall military service in excess of five years be credited: AND PROVIDED FURTHER, That in each instance, a member must restore all withdrawn accumulated contributions, which restoration must be completed on the date of the member's retirement, or as provided under RCW 43.43.130, whichever occurs first: AND PROVIDED FURTHER, That this section shall not apply to any individual, not a veteran within the meaning of RCW 41.06.150.

(b) A member who leaves the Washington state patrol to enter the uniformed services of the United States shall be entitled to retirement system service credit for up to five years of military service. This subsection shall be administered in a manner consistent with the requirements of the federal uniformed services employment and reemployment rights act.

(i) The member qualifies for service credit under this subsection if:

(A) Within ninety days of the member's honorable discharge from the uniformed services of the United States, the member applies for reemployment with the employer who employed the member immediately prior to the member entering the uniformed services; and

(B) The member makes the employee contributions required under RCW 41.45.0631 and 41.45.067 within five years of resumption of service or prior to retirement, whichever comes sooner; or

(C) Prior to retirement and not within ninety days of the member's honorable discharge or five years of resumption of service the member pays the amount required under RCW 41.50.165(2).

(ii) Upon receipt of member contributions under (b)(i)(B), (b)(iv)(C), and (b)(v)(C) of this subsection, the department shall establish the member's service credit and shall bill the employer for its contribution required under RCW 41.45.060 for the period of military service, plus interest as determined by the department.

(iii) The contributions required under (b)(i)(B), (b)(iv)(C), and (b)(v)(C) of this subsection shall be based on the compensation the member would have earned if not on leave, or if that cannot be estimated with reasonable certainty, the compensation reported for the member in the year prior to when the member went on military leave.

(iv) The surviving spouse or lawful domestic partner or eligible child or children of a member who left the employ of an employer to enter the uniformed services of the United States

and died while serving in the uniformed services may, on behalf of the deceased member, apply for retirement system service credit under this subsection up to the date of the member's death in the uniformed services. The department shall establish the deceased member's service credit if the surviving spouse or lawful domestic partner or eligible child or children:

(A) Provides to the director proof of the member's death while serving in the uniformed services;

(B) Provides to the director proof of the member's honorable service in the uniformed services prior to the date of death; and

(C) If the member was commissioned on or after January 1, 2003, pays the employee contributions required under chapter 41.45 RCW within five years of the date of death or prior to the distribution of any benefit, whichever comes first.

(v) A member who leaves the employ of an employer to enter the uniformed services of the United States and becomes totally incapacitated for continued employment by an employer while serving in the uniformed services is entitled to retirement system service credit under this subsection up to the date of discharge from the uniformed services if:

(A) The member obtains a determination from the director that he or she is totally incapacitated for continued employment due to conditions or events that occurred while serving in the uniformed services;

(B) The member provides to the director proof of honorable discharge from the uniformed services; and

(C) If the member was commissioned on or after January 1, 2003, the member pays the employee contributions required under chapter 41.45 RCW within five years of the director's determination of total disability or prior to the distribution of any benefit, whichever comes first.

(4) In no event shall the total retirement benefits from subsections (1), (2), and (3) of this section, of any member exceed seventy-five percent of the member's average final salary.

(5) Beginning July 1, 2001, and every year thereafter, the department shall determine the following information for each retired member or beneficiary whose retirement allowance has been in effect for at least one year:

(a) The original dollar amount of the retirement allowance;

(b) The index for the calendar year prior to the effective date of the retirement allowance, to be known as "index A";

(c) The index for the calendar year prior to the date of determination, to be known as "index B"; and

(d) The ratio obtained when index B is divided by index A.

The value of the ratio obtained shall be the annual adjustment to the original retirement allowance and shall be applied beginning with the July payment. In no event, however, shall the annual adjustment:

(i) Produce a retirement allowance which is lower than the original retirement allowance;

(ii) Exceed three percent in the initial annual adjustment; or

(iii) Differ from the previous year's annual adjustment by more than three percent.

For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index for the Seattle-Tacoma-Bremerton Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

The provisions of this section shall apply to all members presently retired and to all members who shall retire in the future.

Sec. 3. RCW 43.43.270 and 2006 c 94 s 1 are each amended to read as follows:

For members commissioned prior to January 1, 2003:

(1) The normal form of retirement allowance shall be an allowance which shall continue as long as the member lives.

(2) If a member should die while in service the member's lawful spouse or lawful domestic partner shall be paid an allowance which shall be equal to fifty percent of the average final salary of the member. If the member should die after retirement the member's lawful spouse or lawful domestic partner shall be paid an allowance which shall be equal to the retirement allowance then payable to the member or fifty percent of the final average salary used in computing the member's retirement allowance, whichever is less. The allowance paid to the lawful spouse or lawful domestic partner shall continue as long as the spouse or domestic partner lives: PROVIDED, That if a surviving spouse or domestic partner who is receiving benefits under this subsection marries, or enters into a domestic partnership with, another member of this retirement system who subsequently predeceases such spouse or domestic partner, the spouse or domestic partner shall then be entitled to receive the higher of the two survivors' allowances for which eligibility requirements were met, but a surviving spouse or domestic partner shall not receive more than one survivor's allowance from this system at the same time under this subsection. To be eligible for an allowance the lawful surviving spouse or lawful domestic partner of a retired member shall have been married to, or in a domestic partnership with, the member prior to the member's retirement and continuously thereafter until the date of the member's death or shall have been married to, or in a domestic partnership with, the retired member at least two years prior to the member's death. The allowance paid to the lawful spouse or lawful domestic partner may be divided with an ex spouse or ex domestic partner of the member by a dissolution order as defined in RCW 41.50.500(3) incident to a ((~~divorce~~)) dissolution occurring after July 1, 2002. The dissolution order must specifically divide both the member's benefit and any spousal or domestic partner survivor benefit, and must fully comply with RCW 41.50.670 and 41.50.700.

(3) If a member should die, either while in service or after retirement, the member's surviving unmarried children under the age of eighteen years shall be provided for in the following manner:

(a) If there is a surviving spouse or domestic partner, each child shall be entitled to a benefit equal to five percent of the final average salary of the member or retired member. The combined benefits to the surviving spouse or domestic partner and all children shall not exceed sixty percent of the final average salary of the member or retired member; and

(b) If there is no surviving spouse or domestic partner or the spouse or domestic partner should die, the child or children shall be entitled to a benefit equal to thirty percent of the final average salary of the member or retired member for one child and an additional ten percent for each additional child. The combined benefits to the children under this subsection shall not exceed sixty percent of the final average salary of the member or retired member. Payments under this subsection shall be prorated equally among the children, if more than one.

(4) If a member should die in the line of duty while employed by the Washington state patrol, the member's surviving children under the age of twenty years and eleven months if attending any high school, college, university, or vocational or other educational institution accredited or approved by the state of Washington shall be provided for in the following manner:

(a) If there is a surviving spouse or domestic partner, each child shall be entitled to a benefit equal to five percent of the final average salary of the member. The combined benefits to

the surviving spouse or domestic partner and all children shall not exceed sixty percent of the final average salary of the member;

(b) If there is no surviving spouse or domestic partner or the spouse or domestic partner should die, the unmarried child or children shall be entitled to receive a benefit equal to thirty percent of the final average salary of the member or retired member for one child and an additional ten percent for each additional child. The combined benefits to the children under this subsection shall not exceed sixty percent of the final average salary. Payments under this subsection shall be prorated equally among the children, if more than one; and

(c) If a beneficiary under this subsection reaches the age of twenty-one years during the middle of a term of enrollment the benefit shall continue until the end of that term.

(5)(a) The provisions of this section shall apply to members who have been retired on disability as provided in RCW 43.43.040 if the officer was a member of the Washington state patrol retirement system at the time of such disability retirement.

(b) For the purposes of this subsection, average final salary as used in subsection (2) of this section means:

(i) For members commissioned prior to January 1, 2003, the average monthly salary received by active members of the patrol of the rank at which the member became disabled, during the two years prior to the death of the disabled member; and

(ii) For members commissioned on or after January 1, 2003, the average monthly salary received by active members of the patrol of the rank at which the member became disabled, during the five years prior to the death of the disabled member.

(c) The changes to the definitions of average final salary for the survivors of disabled members in this subsection shall apply retroactively. The department shall correct future payments to eligible survivors of members disabled prior to June 7, 2006, and, as soon as administratively practicable, pay each survivor a lump sum payment reflecting the difference, as determined by the director, between the survivor benefits previously received by the member, and those the member would have received under the definitions of average final salary created in chapter 94, Laws of 2006.

Sec. 4. RCW 43.43.271 and 2003 c 294 s 14 are each amended to read as follows:

(1) A member commissioned on or after January 1, 2003, upon retirement for service as prescribed in RCW 43.43.250 shall elect to have the retirement allowance paid pursuant to the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout the member's life. However, if the retiree dies before the total of the retirement allowance paid to the retiree equals the amount of the retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse or domestic partner; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse or domestic partner, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a designated person. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married or in a domestic partnership, must provide the written consent of his or her spouse or domestic partner to the option selected under this section, except as provided in (b) of this subsection. If a member is married or in a domestic partnership and both the member and member's spouse or domestic partner do not give written consent to an option under this section, the department will pay the member a joint and fifty percent survivor benefit and record the member's spouse or domestic partner as the beneficiary. This benefit shall be calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless ((~~spousal~~)) consent by the spouse or domestic partner is not required as provided in (b) of this subsection.

(b) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The ((~~spousal~~)) spouse or domestic partner consent provisions of (a) of this subsection do not apply.

(3) No later than January 1, 2003, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse or domestic partner from a postretirement marriage or domestic partnership as a survivor during a one-year period beginning one year after the date of the postretirement marriage or domestic partnership provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage or domestic partnership prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse or domestic partner as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse or a nondomestic partner as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

(4) No later than July 1, 2003, the department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member who has completed at least five years of service and the member's divorcing spouse or former domestic partner be divided into two separate benefits payable over the life of each spouse or domestic partner.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried or in a domestic partnership at the time of retirement remains subject to the ((~~spousal~~)) spouse or domestic partner consent

requirements of subsection (2) of this section. Any reductions of the member's benefit subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse or former domestic partner shall be eligible to commence receiving their separate benefit upon reaching the ages provided in RCW 43.43.250(2) and after filing a written application with the department.

(b) A court-approved property settlement incident to a court decree of dissolution made after retirement may only divide the benefit into two separate benefits payable over the life of each spouse or domestic partner if the nonmember ex spouse or former domestic partner was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection (3) of this section. Any actuarial reductions subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse or former domestic partner shall be eligible to commence receiving their separate benefits upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

(c) The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution.

Sec. 5. RCW 43.43.278 and 2001 c 329 s 9 are each amended to read as follows:

By July 1, 2000, the department of retirement systems shall adopt rules that allow a member to select an actuarially equivalent retirement option that pays the member a reduced retirement allowance and upon death shall be continued throughout the life of a lawful surviving spouse or lawful domestic partner. The continuing allowance to the lawful surviving spouse or lawful domestic partner shall be subject to the yearly increase provided by RCW 43.43.260(5). The allowance to the lawful surviving spouse or lawful domestic partner under this section, and the allowance for an eligible child or children under RCW 43.43.270, shall not be subject to the limit for combined benefits under RCW 43.43.270.

Sec. 6. RCW 43.43.280 and 1994 c 197 s 35 are each amended to read as follows:

(1) If a member dies before retirement, and has no surviving spouse or domestic partner or children under the age of eighteen years, all contributions made by the member, including any amount paid under RCW 41.50.165(2), with interest as determined by the director, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to such person or persons as the member shall have nominated by written designation duly executed and filed with the department, or if there be no such designated person or persons, then to the member's legal representative.

(2) If a member should cease to be an employee before attaining age sixty for reasons other than the member's death, or retirement, the individual shall thereupon cease to be a member except as provided under RCW 43.43.130 (2) ((~~and~~)), (3), and (4) and, the individual may withdraw the member's contributions to the retirement fund, including any amount paid under RCW 41.50.165(2), with interest as determined by the director, by making application therefor to the department, except that: A member who ceases to be an employee after having completed at least five years of service shall remain a member during the period of the member's absence from employment for the exclusive purpose only of receiving a retirement allowance to begin at attainment of age sixty, however such a member may upon written notice to the department elect to receive a reduced retirement allowance on or after age fifty-five which allowance shall be the actuarial equivalent of the sum necessary to pay regular retirement benefits as of age sixty: PROVIDED, That if such member should withdraw all or part of the member's accumulated contributions, the individual shall thereupon cease to be a member and this subsection shall not apply.

Sec. 7. RCW 43.43.285 and 2007 c 488 s 1 and 2007 c 487 s 9 are each reenacted and amended to read as follows:

(1) A one hundred fifty thousand dollar death benefit shall be paid to the member's estate, or such person or persons, trust or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's death benefit shall be paid to the member's surviving spouse or domestic partner as if in fact such spouse or domestic partner had been nominated by written designation, or if there be no such surviving spouse or domestic partner, then to such member's legal representatives.

(2)(a) The benefit under this section shall be paid only where death occurs as a result of (i) injuries sustained in the course of employment; or (ii) an occupational disease or infection that arises naturally and proximately out of employment covered under this chapter. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050.

(b) The retirement allowance paid to the spouse or domestic partner and dependent children of a member who is killed in the course of employment, as set forth in RCW 41.05.011(14), shall include reimbursement for any payments of premium rates to the Washington state health care authority under RCW 41.05.080.

Sec. 8. RCW 43.43.295 and 2004 c 171 s 1 are each amended to read as follows:

(1) For members commissioned on or after January 1, 2003, except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse or domestic partner as if in fact such spouse or domestic partner had been nominated by written designation, or if there be no such surviving spouse or domestic partner, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or domestic partner or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 43.43.260, actuarially reduced, except under subsection (4) of this section, by the amount of any lump sum benefit

identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 43.43.278 and if the member was not eligible for normal retirement at the date of death a further reduction from age fifty-five or when the member could have attained twenty-five years of service, whichever is less; if a surviving spouse or domestic partner who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse or domestic partner, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse or domestic partner eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated under this section making the assumption that the ages of the spouse or domestic partner and member were equal at the time of the member's death; or

(b)(i) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670; or

(ii) If the member dies, one hundred fifty percent of the member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670. Any accumulated contributions attributable to restorations made under RCW 41.50.165(2) shall be refunded at one hundred percent.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, and is not survived by a spouse or domestic partner or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To an estate, a person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives.

(4) The retirement allowance of a member who is killed in the course of employment, as determined by the director of the department of labor and industries, is not subject to an actuarial reduction.

Sec. 9. RCW 41.05.080 and 2007 c 114 s 6 are each amended to read as follows:

(1) Under the qualifications, terms, conditions, and benefits set by the board:

(a) Retired or disabled state employees, retired or disabled school employees, retired or disabled employees of county, municipal, or other political subdivisions, or retired or disabled employees of tribal governments covered by this chapter may continue their participation in insurance plans and contracts after retirement or disablement;

(b) Separated employees may continue their participation in insurance plans and contracts if participation is selected immediately upon separation from employment;

(c) Surviving spouses, surviving spouses or surviving domestic partners in the case of members of the Washington state patrol retirement system, and dependent children of emergency service personnel killed in the line of duty may participate in insurance plans and contracts.

(2) Rates charged surviving spouses, or surviving spouses or surviving domestic partners in the case of members of the Washington state patrol retirement system, of emergency service personnel killed in the line of duty, retired or disabled employees, separated employees, spouses, or dependent children who are not eligible for parts A and B of medicare shall be based on the experience of the community rated risk pool established under RCW 41.05.022.

(3) Rates charged to surviving spouses, or surviving spouses or surviving domestic partners in the case of members of the Washington state patrol retirement system, of emergency service personnel killed in the line of duty, retired or disabled employees, separated employees, spouses, or children who are eligible for parts A and B of medicare shall be calculated from a separate experience risk pool comprised only of individuals eligible for parts A and B of medicare; however, the premiums charged to medicare-eligible retirees and disabled employees shall be reduced by the amount of the subsidy provided under RCW 41.05.085.

(4) Surviving spouses, surviving spouses or surviving domestic partners in the case of members of the Washington state patrol retirement system, and dependent children of emergency service personnel killed in the line of duty and retired or disabled and separated employees shall be responsible for payment of premium rates developed by the authority which shall include the cost to the authority of providing insurance coverage including any amounts necessary for reserves and administration in accordance with this chapter. These self pay rates will be established based on a separate rate for the employee, the spouse, the spouse or domestic partner in the case of members of the Washington state patrol retirement system, and the children.

(5) The term "retired state employees" for the purpose of this section shall include but not be limited to members of the legislature whether voluntarily or involuntarily leaving state office."

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

Senator Swecker spoke against adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to Engrossed Substitute House Bill No. 1445.

The motion by Senator Jarrett 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 "system;" strike the remainder of the title and insert "amending RCW 43.43.120, 43.43.260, 43.43.270, 43.43.271, 43.43.278, 43.43.280, 43.43.295, and 41.05.080; and reenacting and amending RCW 43.43.285."

MOTION

On motion of Senator Jarrett, the rules were suspended, Engrossed Substitute House Bill No. 1445 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 Jarrett spoke in favor of passage of the bill.

Senator Swecker spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1445 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1445 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 29; Nays, 18; Absent, 0; Excused, 2.

Voting yea: Senators Brandland, Brown, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hobbs, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller and Tom

Voting nay: Senators Becker, Benton, Carrell, Delvin, Hargrove, Hewitt, Holmquist, Honeyford, McCaslin, Morton, Parlette, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Excused: Senators Berkey and Jacobsen

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1445 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. 1170, by House Committee on Judiciary (originally sponsored by Representatives McCoy, Rodne, Kelley, Warnick, Seaquist, Angel, Green, Shea, Sells, McCune, Kagi, Ormsby and Smith)

Modifying parenting plans based on the military service of a parent.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 26.09.004 and 2008 c 6 s 1003 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Temporary parenting plan" means a plan for parenting of the child pending final resolution of any action for dissolution of marriage or domestic partnership, declaration of invalidity, or legal separation which is incorporated in a temporary order.

(2) "Permanent parenting plan" means a plan for parenting the child, including allocation of parenting functions, which plan is incorporated in any final decree or decree of modification in an action for dissolution of marriage or domestic partnership, declaration of invalidity, or legal separation.

(3) "Parenting functions" means those aspects of the parent-child relationship in which the parent makes decisions and performs functions necessary for the care and growth of the child. Parenting functions include:

(a) Maintaining a loving, stable, consistent, and nurturing relationship with the child;

(b) Attending to the daily needs of the child, such as feeding, clothing, physical care and grooming, supervision, health care, and day care, and engaging in other activities which are appropriate to the developmental level of the child and that are within the social and economic circumstances of the particular family;

(c) Attending to adequate education for the child, including remedial or other education essential to the best interests of the child;

(d) Assisting the child in developing and maintaining appropriate interpersonal relationships;

(e) Exercising appropriate judgment regarding the child's welfare, consistent with the child's developmental level and the family's social and economic circumstances; and

(f) Providing for the financial support of the child.

(4) "Military duties potentially impacting parenting functions" means those obligations imposed, voluntarily or involuntarily, on a parent serving in the armed forces that may interfere with that parent's abilities to perform his or her parenting functions under a temporary or permanent parenting plan. Military duties potentially impacting parenting functions include, but are not limited to:

(a) "Deployment," which means the temporary transfer of a service member serving in an active-duty status to another location in support of a military operation, to include any tour of duty classified by the member's branch of the armed forces as "remote" or "unaccompanied";

(b) "Activation" or "mobilization," which means the call-up of a national guard or reserve service member to extended active-duty status. For purposes of this definition, "mobilization" does not include national guard or reserve annual training, inactive duty days, or drill weekends; or

(c) "Temporary duty," which means the transfer of a service member from one military base or the service member's home to a different location, usually another base, for a limited period of time to accomplish training or to assist in the performance of a noncombat mission.

Sec. 2. RCW 26.09.010 and 2008 c 6 s 1004 are each amended to read as follows:

(1) Except as otherwise specifically provided herein, the practice in civil action shall govern all proceedings under this chapter, except that trial by jury is dispensed with.

(2) A proceeding for dissolution of marriage or domestic partnership, legal separation or a declaration concerning the validity of a marriage or domestic partnership shall be entitled "In re the marriage of . . . . . and . . . . . ." or "In re the domestic partnership of . . . . . and . . . . . ." Such proceedings may be filed in the superior court of the county where the petitioner resides.

(3) In cases where there has been no prior proceeding in this state involving the marital or domestic partnership status of the parties or support obligations for a minor child, a separate parenting and support proceeding between the parents shall be entitled "In re the parenting and support of . . . . . ."

(4) The initial pleading in all proceedings under this chapter shall be denominated a petition. A responsive pleading shall be denominated a response. Other pleadings, and all pleadings in other matters under this chapter shall be denominated as provided in the civil rules for superior court.

(5) In this chapter, "decree" includes "judgment".

(6) A decree of dissolution, of legal separation, or a declaration concerning the validity of a marriage or domestic partnership shall not be awarded to one of the parties, but shall provide that it affects the status previously existing between the parties in the manner decreed.

(7) In order to provide a means by which to facilitate a fair, efficient, and swift process to resolve matters regarding custody and visitation when a parent serving in the armed forces receives

temporary duty, deployment, activation, or mobilization orders from the military, the court shall, upon motion of such a parent:

(a) For good cause shown, hold an expedited hearing in custody and visitation matters instituted under this chapter when the military duties of the parent have a material effect on the parent's ability, or anticipated ability, to appear in person at a regularly scheduled hearing; and

(b) Upon reasonable advance notice to the affected parties and for good cause shown, allow the parent to present testimony and evidence by electronic means in custody and visitation matters instituted under this chapter when the military duties of the parent have a material effect on the parent's ability to appear in person at a regularly scheduled hearing. The phrase "electronic means" includes communication by telephone, video teleconference, or the internet.

Sec. 3. RCW 26.09.260 and 2000 c 21 s 19 are each amended to read as follows:

(1) Except as otherwise provided in subsections (4), (5), (6), (8), and (10) of this section, the court shall not modify a prior custody decree or a parenting plan unless it finds, upon the basis of facts that have arisen since the prior decree or plan or that were unknown to the court at the time of the prior decree or plan, that a substantial change has occurred in the circumstances of the child or the nonmoving party and that the modification is in the best interest of the child and is necessary to serve the best interests of the child. The effect of a parent's military duties potentially impacting parenting functions shall not, by itself, be a substantial change of circumstances justifying a permanent modification of a prior decree or plan.

(2) In applying these standards, the court shall retain the residential schedule established by the decree or parenting plan unless:

(a) The parents agree to the modification;

(b) The child has been integrated into the family of the petitioner with the consent of the other parent in substantial deviation from the parenting plan;

(c) The child's present environment is detrimental to the child's physical, mental, or emotional health and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child; or

(d) The court has found the nonmoving parent in contempt of court at least twice within three years because the parent failed to comply with the residential time provisions in the court-ordered parenting plan, or the parent has been convicted of custodial interference in the first or second degree under RCW 9A.40.060 or 9A.40.070.

(3) A conviction of custodial interference in the first or second degree under RCW 9A.40.060 or 9A.40.070 shall constitute a substantial change of circumstances for the purposes of this section.

(4) The court may reduce or restrict contact between the child and the parent with whom the child does not reside a majority of the time if it finds that the reduction or restriction would serve and protect the best interests of the child using the criteria in RCW 26.09.191.

(5) The court may order adjustments to the residential aspects of a parenting plan upon a showing of a substantial change in circumstances of either parent or of the child, and without consideration of the factors set forth in subsection (2) of this section, if the proposed modification is only a minor modification in the residential schedule that does not change the residence the child is scheduled to reside in the majority of the time and:

(a) Does not exceed twenty-four full days in a calendar year; or

(b) Is based on a change of residence of the parent with whom the child does not reside the majority of the time or an involuntary change in work schedule by a parent which makes the residential schedule in the parenting plan impractical to follow; or

(c) Does not result in a schedule that exceeds ninety overnights per year in total, if the court finds that, at the time the petition for modification is filed, the decree of dissolution or parenting plan does not provide reasonable time with the parent with whom the child does not reside a majority of the time, and further, the court finds that it is in the best interests of the child to increase residential time with the parent in excess of the residential time period in (a) of this subsection. However, any motion under this subsection (5)(c) is subject to the factors established in subsection (2) of this section if the party bringing the petition has previously been granted a modification under this same subsection within twenty-four months of the current motion. Relief granted under this section shall not be the sole basis for adjusting or modifying child support.

(6) The court may order adjustments to the residential aspects of a parenting plan pursuant to a proceeding to permit or restrain a relocation of the child. The person objecting to the relocation of the child or the relocating person's proposed revised residential schedule may file a petition to modify the parenting plan, including a change of the residence in which the child resides the majority of the time, without a showing of adequate cause other than the proposed relocation itself. A hearing to determine adequate cause for modification shall not be required so long as the request for relocation of the child is being pursued. In making a determination of a modification pursuant to relocation of the child, the court shall first determine whether to permit or restrain the relocation of the child using the procedures and standards provided in RCW 26.09.405 through 26.09.560. Following that determination, the court shall determine what modification pursuant to relocation should be made, if any, to the parenting plan or custody order or visitation order.

(7) A parent with whom the child does not reside a majority of the time and whose residential time with the child is subject to limitations pursuant to RCW 26.09.191 (2) or (3) may not seek expansion of residential time under subsection (5)(c) of this section unless that parent demonstrates a substantial change in circumstances specifically related to the basis for the limitation.

(8)(a) If a parent with whom the child does not reside a majority of the time voluntarily fails to exercise residential time for an extended period, that is, one year or longer, the court upon proper motion may make adjustments to the parenting plan in keeping with the best interests of the minor child.

(b) For the purposes of determining whether the parent has failed to exercise residential time for one year or longer, the court may not count any time periods during which the parent did not exercise residential time due to the effect of the parent's military duties potentially impacting parenting functions.

(9) A parent with whom the child does not reside a majority of the time who is required by the existing parenting plan to complete evaluations, treatment, parenting, or other classes may not seek expansion of residential time under subsection (5)(c) of this section unless that parent has fully complied with such requirements.

(10) The court may order adjustments to any of the nonresidential aspects of a parenting plan upon a showing of a substantial change of circumstances of either parent or of a child, and the adjustment is in the best interest of the child.

Adjustments ordered under this section may be made without consideration of the factors set forth in subsection (2) of this section.

(11) If the parent with whom the child resides a majority of the time receives temporary duty, deployment, activation, or mobilization orders from the military that involve moving a substantial distance away from the parent's residence or otherwise would have a material effect on the parent's ability to exercise parenting functions and primary placement responsibilities, then:

(a) Any temporary custody order for the child during the parent's absence shall end no later than ten days after the returning parent provides notice to the temporary custodian, but shall not impair the discretion of the court to conduct an expedited or emergency hearing for resolution of the child's residential placement upon return of the parent and within ten days of the filing of a motion alleging an immediate danger of irreparable harm to the child; and

(b) The temporary duty, activation, mobilization, or deployment and the temporary disruption to the child's schedule shall not be a factor in a determination of change of circumstances if a motion is filed to transfer residential placement from the parent who is a military service member.

(12) If a parent receives military temporary duty, deployment, activation, or mobilization orders that involve moving a substantial distance away from the military parent's residence or otherwise have a material effect on the military parent's ability to exercise residential time or visitation rights, at the request of the military parent, the court may delegate the military parent's residential time or visitation rights, or a portion thereof, to a child's family member, including a stepparent or another person other than a parent with a close and substantial relationship to the minor child for the duration of the military parent's absence, if delegating residential time or visitation rights is in the child's best interest. The court may not permit the delegation of residential time or visitation rights to a person who would be subject to limitations on residential time under RCW 26.09.191. The parties shall attempt to resolve disputes regarding delegation of residential time or visitation rights through the dispute resolution process specified in their parenting plan, unless excused by the court for good cause shown. Such a court-ordered temporary delegation of a military parent's residential time or visitation rights does not create separate rights to residential time or visitation for a person other than a parent.

(13) If the court finds that a motion to modify a prior decree or parenting plan has been brought in bad faith, the court shall assess the attorney's fees and court costs of the nonmoving parent against the moving party."

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

MOTION

Senator Regala moved that the following amendment by Senators Hargrove and Stevens to the committee striking amendment be adopted.

On page 6, line 36, after "child", insert ". If a motion alleging immediate danger has not been filed, the motion for an order restoring the previous residential schedule shall be granted"

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

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove and Stevens on page 6, line 36 to the committee striking amendment to Substitute House Bill No. 1170.

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections as amended to Substitute House Bill No. 1170.

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

MOTION

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

On page 1, line 2 of the title, after "parent;" strike the remainder of the title and insert "and amending RCW 26.09.004, 26.09.010, and 26.09.260."

MOTION

On motion of Senator Regala, the rules were suspended, Substitute House Bill No. 1170 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 Regala spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1170 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1170 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 2; Excused, 2.

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

Absent: Senators Kline and Oemig

Excused: Senators Berkey and Jacobsen

SUBSTITUTE HOUSE BILL NO. 1170 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. 1362, by House Committee on Judiciary (originally sponsored by Representatives Goodman, Rodne, Sullivan, Williams, Orwall, O'Brien, Kirby, Chase and Conway)

Concerning conveyances used in prostitution-related offenses.

The measure was read the second time.

MOTION

Senator Kohl-Welles 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.88.140 and 2007 c 368 s 8 are each amended to read as follows:

(1)(a) Upon an arrest for a suspected violation of patronizing a prostitute ((~~or~~)), promoting prostitution in the first degree, promoting prostitution in the second degree, promoting travel for prostitution, commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, or promoting travel for commercial sexual abuse of a minor, the arresting law enforcement officer may impound the person's vehicle if ((~~(a)~~)) (i) the motor vehicle was used in the commission of the crime; ((~~(b)~~)) (ii) the person arrested is the owner of the vehicle or the vehicle is a rental car as defined in RCW 46.04.465; and ((~~(c)~~)) (iii) either (A) the person arrested has previously been convicted of ((~~patronizing a prostitute, under RCW 9A.88.110, or commercial sexual abuse of a minor, under RCW 9.68A.100~~)) one of the offenses listed in this subsection or (B) the offense was committed within an area designated under (b) of this subsection.

(b) A local governing authority may designate areas within which vehicles are subject to impoundment under this section regardless of whether the person arrested has previously been convicted of any of the offenses listed in (a) of this subsection.

(i) The designation must be based on evidence indicating that the area has a disproportionately higher number of arrests for the offenses listed in (a) of this subsection as compared to other areas within the same jurisdiction.

(ii) The local governing authority shall post signs at the boundaries of the designated area to indicate that the area has been designated under this subsection.

(2) Impoundments performed under this section shall be in accordance with chapter 46.55 RCW and the impoundment order must clearly state "prostitution hold."

(3)(a) Prior to redeeming the impounded vehicle, and in addition to all applicable impoundment, towing, and storage fees paid to the towing company under chapter 46.55 RCW, the owner of the impounded vehicle must pay a fine of five hundred dollars to the impounding agency. The fine shall be deposited in the prostitution prevention and intervention account established under RCW 43.63A.740.

(b) Upon receipt of the fine paid under (a) of this subsection, the impounding agency shall issue a written receipt to the owner of the impounded vehicle.

(4)(a) In order to redeem a vehicle impounded under this section, the owner must provide the towing company with the written receipt issued under subsection (3)(b) of this section.

(b) The written receipt issued under subsection (3)(b) of this section authorizes the towing company to release the impounded vehicle upon payment of all impoundment, towing, and storage fees.

(c) A towing company that relies on a forged receipt to release a vehicle impounded under this section is not liable to the impounding authority for any unpaid fine under subsection (3)(a) of this section.

(5)(a) In any proceeding under chapter 46.55 RCW to contest the validity of an impoundment under this section where the claimant substantially prevails, the claimant is entitled to a full refund of the impoundment, towing, and storage fees paid under chapter 46.55 RCW and the five hundred dollar fine paid under subsection (3) of this section.

(b) If the person is found not guilty at trial for a crime listed under subsection (1) of this section, the person is entitled to a full refund of the impoundment, towing, and storage fees paid under chapter 46.55 RCW and the five hundred dollar fine paid under subsection (3) of this section.

(c) All refunds made under this section shall be paid by the impounding agency.

(d) Prior to receiving any refund under this section, the claimant must provide proof of payment.

Sec. 2. RCW 43.63A.740 and 1995 c 353 s 11 are each amended to read as follows:

The prostitution prevention and intervention account is created in the state treasury. All designated receipts from fees under RCW 9.68A.105 and 9A.88.120 and fines collected under RCW 9A.88.140 shall be deposited into the account. Expenditures from the account may be used only for funding the grant program to enhance prostitution prevention and intervention services under RCW 43.63A.720.

Sec. 3. RCW 46.55.120 and 2004 c 250 s 1 are each amended to read as follows:

(1) Vehicles or other items of personal property registered or titled with the department that are impounded by registered tow truck operators pursuant to RCW 46.55.080, 46.55.085, 46.55.113, or 9A.88.140 may be redeemed only under the following circumstances:

(a) Only the legal owner, the registered owner, a person authorized in writing by the registered owner or the vehicle's insurer, a person who is determined and verified by the operator to have the permission of the registered owner of the vehicle or other item of personal property registered or titled with the department, or one who has purchased a vehicle or item of personal property registered or titled with the department from the registered owner who produces proof of ownership or written authorization and signs a receipt therefor, may redeem an impounded vehicle or items of personal property registered or titled with the department. In addition, a vehicle impounded because the operator is in violation of RCW 46.20.342(1)(c) shall not be released until a person eligible to redeem it under this subsection (1)(a) satisfies the requirements of (e) of this subsection, including paying all towing, removal, and storage fees, notwithstanding the fact that the hold was ordered by a government agency. If the department's records show that the operator has been convicted of a violation of RCW 46.20.342 or a similar local ordinance within the past five years, the vehicle may be held for up to thirty days at the written direction of the agency ordering the vehicle impounded. A vehicle impounded because the operator is arrested for a violation of RCW 46.20.342 may be released only pursuant to a written order from the agency that ordered the vehicle impounded or from the court having jurisdiction. An agency ((~~may~~)) shall issue a written order to release pursuant to a provision of an applicable state agency rule or local ordinance authorizing release on the basis of the following:

(i) Economic or personal hardship to the spouse of the operator, taking into consideration public safety factors, including the operator's criminal history and driving record; or

(ii) The owner of the vehicle was not the driver, the owner did not know that the driver's license was suspended or revoked, and the owner has not received a prior release under this subsection or RCW 46.55.113(3).

In order to avoid discriminatory application, other than for the reasons for release set forth in (a)(i) and (ii) of this subsection, an agency shall, under a provision of an applicable

state agency rule or local ordinance, deny release in all other circumstances without discretion.

If a vehicle is impounded because the operator is in violation of RCW 46.20.342(1) (a) or (b), the vehicle may be held for up to thirty days at the written direction of the agency ordering the vehicle impounded. However, if the department's records show that the operator has been convicted of a violation of RCW 46.20.342(1) (a) or (b) or a similar local ordinance within the past five years, the vehicle may be held at the written direction of the agency ordering the vehicle impounded for up to sixty days, and for up to ninety days if the operator has two or more such prior offenses. If a vehicle is impounded because the operator is arrested for a violation of RCW 46.20.342, the vehicle may not be released until a person eligible to redeem it under this subsection (1)(a) satisfies the requirements of (e) of this subsection, including paying all towing, removal, and storage fees, notwithstanding the fact that the hold was ordered by a government agency.

(b) If the vehicle is directed to be held for a suspended license impound, a person who desires to redeem the vehicle at the end of the period of impound shall within five days of the impound at the request of the tow truck operator pay a security deposit to the tow truck operator of not more than one-half of the applicable impound storage rate for each day of the proposed suspended license impound. The tow truck operator shall credit this amount against the final bill for removal, towing, and storage upon redemption. The tow truck operator may accept other sufficient security in lieu of the security deposit. If the person desiring to redeem the vehicle does not pay the security deposit or provide other security acceptable to the tow truck operator, the tow truck operator may process and sell at auction the vehicle as an abandoned vehicle within the normal time limits set out in RCW 46.55.130(1). The security deposit required by this section may be paid and must be accepted at any time up to twenty-four hours before the beginning of the auction to sell the vehicle as abandoned. The registered owner is not eligible to purchase the vehicle at the auction, and the tow truck operator shall sell the vehicle to the highest bidder who is not the registered owner.

(c) Notwithstanding (b) of this subsection, a rental car business may immediately redeem a rental vehicle it owns by payment of the costs of removal, towing, and storage, whereupon the vehicle will not be held for a suspended license impound.

(d) Notwithstanding (b) of this subsection, a motor vehicle dealer or lender with a perfected security interest in the vehicle may redeem or lawfully repossess a vehicle immediately by payment of the costs of removal, towing, and storage, whereupon the vehicle will not be held for a suspended license impound. A motor vehicle dealer or lender with a perfected security interest in the vehicle may not knowingly and intentionally engage in collusion with a registered owner to repossess and then return or resell a vehicle to the registered owner in an attempt to avoid a suspended license impound. However, this provision does not preclude a vehicle dealer or a lender with a perfected security interest in the vehicle from repossessing the vehicle and then selling, leasing, or otherwise disposing of it in accordance with chapter 62A.9A RCW, including providing redemption rights to the debtor under RCW 62A.9A-623. If the debtor is the registered owner of the vehicle, the debtor's right to redeem the vehicle under chapter 62A.9A RCW is conditioned upon the debtor obtaining and providing proof from the impounding authority or court having jurisdiction that any fines, penalties, and forfeitures owed by the registered owner, as a result of the suspended license impound, have been paid, and proof of the payment must be tendered to the vehicle dealer or lender at the time the debtor tenders all other obligations required to redeem the vehicle. Vehicle dealers or lenders are not liable for damages if they rely in good faith on an order from the impounding agency or a court in releasing a vehicle held under a suspended license impound.

(e) The vehicle or other item of personal property registered or titled with the department shall be released upon the presentation to any person having custody of the vehicle of commercially reasonable tender sufficient to cover the costs of towing, storage, or other services rendered during the course of towing, removing, impounding, or storing any such vehicle, with credit being given for the amount of any security deposit paid under (b) of this subsection. In addition, if a vehicle is impounded because the operator was arrested for a violation of RCW 46.20.342 or 46.20.345 and was being operated by the registered owner when it was impounded under local ordinance or agency rule, it must not be released to any person until the registered owner establishes with the agency that ordered the vehicle impounded or the court having jurisdiction that any penalties, fines, or forfeitures owed by him or her have been satisfied. Registered tow truck operators are not liable for damages if they rely in good faith on an order from the impounding agency or a court in releasing a vehicle held under a suspended license impound. Commercially reasonable tender shall include, without limitation, cash, major bank credit cards issued by financial institutions, or personal checks drawn on Washington state branches of financial institutions if accompanied by two pieces of valid identification, one of which may be required by the operator to have a photograph. If the towing firm cannot determine through the customer's bank or a check verification service that the presented check would be paid by the bank or guaranteed by the service, the towing firm may refuse to accept the check. Any person who stops payment on a personal check or credit card, or does not make restitution within ten days from the date a check becomes insufficient due to lack of funds, to a towing firm that has provided a service pursuant to this section or in any other manner defrauds the towing firm in connection with services rendered pursuant to this section shall be liable for damages in the amount of twice the towing and storage fees, plus costs and reasonable attorney's fees.

(2)(a) The registered tow truck operator shall give to each person who seeks to redeem an impounded vehicle, or item of personal property registered or titled with the department, written notice of the right of redemption and opportunity for a hearing, which notice shall be accompanied by a form to be used for requesting a hearing, the name of the person or agency authorizing the impound, and a copy of the towing and storage invoice. The registered tow truck operator shall maintain a record evidenced by the redeeming person's signature that such notification was provided.

(b) Any person seeking to redeem an impounded vehicle under this section has a right to a hearing in the district or municipal court for the jurisdiction in which the vehicle was impounded to contest the validity of the impoundment or the amount of towing and storage charges. The district court has jurisdiction to determine the issues involving all impoundments including those authorized by the state or its agents. The municipal court has jurisdiction to determine the issues involving impoundments authorized by agents of the municipality. Any request for a hearing shall be made in writing on the form provided for that purpose and must be received by the appropriate court within ten days of the date the opportunity was provided for in subsection (2)(a) of this section and more

than five days before the date of the auction. At the time of the filing of the hearing request, the petitioner shall pay to the court clerk a filing fee in the same amount required for the filing of a suit in district court. If the hearing request is not received by the court within the ten-day period, the right to a hearing is waived and the registered owner is liable for any towing, storage, or other impoundment charges permitted under this chapter. Upon receipt of a timely hearing request, the court shall proceed to hear and determine the validity of the impoundment.

(3)(a) The court, within five days after the request for a hearing, shall notify the registered tow truck operator, the person requesting the hearing if not the owner, the registered and legal owners of the vehicle or other item of personal property registered or titled with the department, and the person or agency authorizing the impound in writing of the hearing date and time.

(b) At the hearing, the person or persons requesting the hearing may produce any relevant evidence to show that the impoundment, towing, or storage fees charged were not proper. The court may consider a written report made under oath by the officer who authorized the impoundment in lieu of the officer's personal appearance at the hearing.

(c) At the conclusion of the hearing, the court shall determine whether the impoundment was proper, whether the towing or storage fees charged were in compliance with the posted rates, and who is responsible for payment of the fees. The court may not adjust fees or charges that are in compliance with the posted or contracted rates.

(d) If the impoundment is found proper, the impoundment, towing, and storage fees as permitted under this chapter together with court costs shall be assessed against the person or persons requesting the hearing, unless the operator did not have a signed and valid impoundment authorization from a private property owner or an authorized agent.

(e) If the impoundment is determined to be in violation of this chapter, then the registered and legal owners of the vehicle or other item of personal property registered or titled with the department shall bear no impoundment, towing, or storage fees, and any security shall be returned or discharged as appropriate, and the person or agency who authorized the impoundment shall be liable for any towing, storage, or other impoundment fees permitted under this chapter. The court shall enter judgment in favor of the registered tow truck operator against the person or agency authorizing the impound for the impoundment, towing, and storage fees paid. In addition, the court shall enter judgment in favor of the registered and legal owners of the vehicle, or other item of personal property registered or titled with the department, for the amount of the filing fee required by law for the impound hearing petition as well as reasonable damages for loss of the use of the vehicle during the time the same was impounded against the person or agency authorizing the impound. However, if an impoundment arising from an alleged violation of RCW 46.20.342 or 46.20.345 is determined to be in violation of this chapter, then the law enforcement officer directing the impoundment and the government employing the officer are not liable for damages if the officer relied in good faith and without gross negligence on the records of the department in ascertaining that the operator of the vehicle had a suspended or revoked driver's license. If any judgment entered is not paid within fifteen days of notice in writing of its entry, the court shall award reasonable attorneys' fees and costs against the defendant in any action to enforce the judgment. Notice of entry of judgment may be made by registered or certified mail, and proof of mailing may be made by affidavit of the party mailing the notice. Notice of the entry of the judgment shall read essentially as follows:

TO: . . . . . .

YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the . . . . . Court located at . . . . . in the sum of $. . . . ., in an action entitled . . . . ., Case No. . . . . YOU ARE FURTHER NOTIFIED that attorneys fees and costs will be awarded against you under RCW . . . if the judgment is not paid within 15 days of the date of this notice.

DATED this . . . . day of . . . . ., (year) . . .

Signature . . . . . .

Typed name and address of party mailing notice

(4) Any impounded abandoned vehicle or item of personal property registered or titled with the department that is not redeemed within fifteen days of mailing of the notice of custody and sale as required by RCW 46.55.110(3) shall be sold at public auction in accordance with all the provisions and subject to all the conditions of RCW 46.55.130. A vehicle or item of personal property registered or titled with the department may be redeemed at any time before the start of the auction upon payment of the applicable towing and storage fees."

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

MOTION

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary to Engrossed Substitute House Bill No. 1362.

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

MOTION

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

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "vehicles used in prostitution-related offenses; and amending RCW 9A.88.140, 43.63A.740, and 46.55.120."

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Substitute House Bill No. 1362 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1362 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1362 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 Becker, Benton, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Berkey and Jacobsen

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1362 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 2:55 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 3:53 p.m. by President Owen.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1621, by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Kirby, Bailey, Rodne, Nelson, Simpson and Moeller)

Regulating the business practices of consumer loan companies for compliance with the secure and fair enforcement for mortgage licensing act of 2008.

The measure was read the second time.

MOTION

On motion of Senator Hobbs, the rules were suspended, Substitute House Bill No. 1621 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1621.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1621 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 3; Absent, 3; Excused, 2.

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

Voting nay: Senators Holmquist, McCaslin and Stevens

Absent: Senators Benton, Morton and Oemig

Excused: Senators Berkey and Jacobsen

SUBSTITUTE HOUSE BILL NO. 1621, 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. 1825, by House Committee on Local Government & Housing (originally sponsored by Representatives Rodne and Anderson)

Identifying specific facilities planning requirements under the growth management act.

The measure was read the second time.

MOTION

On motion of Senator Fairley, the rules were suspended, Substitute House Bill No. 1825 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator Marr, Senators McAuliffe and Oemig were excused.

MOTION

On motion of Senator Brandland, Senators Benton and Morton were excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1825.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1825 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Berkey, Jacobsen, McAuliffe and Morton

SUBSTITUTE HOUSE BILL NO. 1825, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1899, by House Committee on Health & Human Services Appropriations (originally sponsored by Representatives Warnick and Hinkle)

Concerning physicians holding a retired active license.

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.** The legislature finds that increasing the number of retired physicians who provide volunteer health care services is a cost-effective way to improve access to health care for many citizens of this state. Physicians holding a retired active license must currently meet many of the same requirements as physicians in active practice, including at least fifty hours of continuing education a year, despite the fact that retired active physicians may only practice a maximum of ninety days a year, are limited to providing primary care services, and are limited to providing such services only in community clinics that are operated by public or private tax-exempt corporations. This presents both financial and practical barriers for retired physicians who wish to provide health care services on a volunteer basis, barriers that are not as stringent in other states that provide similar licenses for retired physicians. It is therefore the intent of the legislature to ease some of these barriers in a manner that does not adversely affect public safety.

Sec. 2. RCW 18.71.080 and 1996 c 191 s 52 are each amended to read as follows:

Every person licensed to practice medicine in this state shall pay licensing fees and renew his or her license in accordance with administrative procedures and administrative requirements adopted as provided in RCW 43.70.250 and 43.70.280. A physician who resides and practices in Washington and obtains or renews a retired active license shall be exempt from licensing fees imposed under this section. The commission may establish rules governing mandatory continuing education requirements which shall be met by physicians applying for renewal of licenses. The rules shall provide that mandatory continuing education requirements may be met in part by physicians showing evidence of the completion of approved activities relating to professional liability risk management. The number of hours of continuing education for a physician holding a retired active license shall not exceed fifty hours per year. The commission, in its sole discretion, may permit an applicant who has not renewed his or her license to be licensed without examination if it is satisfied that such applicant meets all the requirements for licensure in this state, and is competent to engage in the practice of medicine.

Sec. 3. RCW 18.130.250 and 1991 c 229 s 1 are each amended to read as follows:

The disciplining authority may adopt rules pursuant to this section authorizing a retired active license status. An individual credentialed by a disciplining authority regulated in the state under RCW 18.130.040, who is practicing only in emergent or intermittent circumstances as defined by rule established by the disciplining authority, may hold a retired active license at a reduced renewal fee established by the secretary under RCW 43.70.250 or, for a physician regulated pursuant to chapter 18.71 RCW who resides and practices in Washington and holds a retired active license, at no renewal fee. Except as provided in RCW 18.71.080, such a license shall meet the continuing education or continued competency requirements, if any, established by the disciplining authority for renewals, and is subject to the provisions of this chapter. Individuals who have entered into retired status agreements with the disciplinary authority in any jurisdiction shall not qualify for a retired active license under this section.

NEW SECTION. **Sec. 4.** A new section is added to chapter 18.71 RCW to read as follows:

(1) The commission shall consider amending its rules on retired active physicians in a manner that improves access to health care services for the citizens of this state without compromising public safety. When considering whether to amend its rules, the commission shall, at a minimum, consider the following:

(a) Whether physicians holding retired active licenses should be allowed to provide health care services beyond primary care;

(b) Whether physicians holding retired active licenses should be allowed to provide health care services in settings beyond community clinics operated by public or private tax-exempt corporations; and

(c) The number and type of continuing education hours that physicians holding retired active licenses shall be required to obtain.

(2) The commission shall determine whether it will amend its rules in the manner suggested by this section no later than November 15, 2009. If the commission determines that it will not amend its rules, it shall provide a written explanation of its decision to the appropriate committees of the legislature no later than December 1, 2009.

Sec. 5. RCW 43.70.110 and 2007 c 259 s 11 are each amended to read as follows:

(1) The secretary shall charge fees to the licensee for obtaining a license. Physicians regulated pursuant to chapter 18.71 RCW who reside and practice in Washington and obtain or renew a retired active license are exempt from such fees. After June 30, 1995, municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro rata share of the cost of licensure and inspection, if appropriate. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Except as provided in subsection (3) of this section, fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) License fees shall include amounts in addition to the cost of licensure activities in the following circumstances:

(a) For registered nurses and licensed practical nurses licensed under chapter 18.79 RCW, support of a central nursing resource center as provided in RCW 18.79.202, until June 30, 2013;

(b) For all health care providers licensed under RCW 18.130.040, the cost of regulatory activities for retired volunteer medical worker licensees as provided in RCW 18.130.360; and

(c) For physicians licensed under chapter 18.71 RCW, physician assistants licensed under chapter 18.71A RCW, osteopathic physicians licensed under chapter 18.57 RCW, osteopathic physicians' assistants licensed under chapter 18.57A RCW, naturopaths licensed under chapter 18.36A RCW, podiatrists licensed under chapter 18.22 RCW, chiropractors licensed under chapter 18.25 RCW, psychologists licensed under chapter 18.83 RCW, registered nurses licensed under chapter 18.79 RCW, optometrists licensed under chapter 18.53 RCW, mental health counselors licensed under chapter 18.225 RCW, massage therapists licensed under chapter 18.108 RCW, clinical social workers licensed under chapter 18.225 RCW, and acupuncturists licensed under chapter 18.06 RCW, the license fees shall include up to an additional twenty-five dollars to be transferred by the department to the University of Washington for the purposes of RCW 43.70.112.

(4) Department of health advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees."

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care to Second Substitute House Bill No. 1899.

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 "license;" strike the remainder of the title and insert "amending RCW 18.71.080, 18.130.250, and 43.70.110; adding a new section to chapter 18.71 RCW; and creating a new section."

MOTION

On motion of Senator Keiser, the rules were suspended, Second Substitute House Bill No. 1899 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator Marr, Senator Prentice was excused.

MOTION

On motion of Senator Brandland, Senator Carrell was excused.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1899 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1899 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

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

Excused: Senators Berkey, Jacobsen, McAuliffe, Morton and Prentice

SECOND SUBSTITUTE HOUSE BILL NO. 1899 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 Marr, Senators Kauffman and Keiser were excused.

MOTION

The Senate resumed consideration of Engrossed Substitute House Bill No. 1741 which had deferred on April 7, 2009.

MOTION

On motion of Senator Brandland, the rules were suspended, Engrossed Substitute House Bill No. 1741 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Brandland, Oemig and Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1741 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1741 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

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

Excused: Senators Berkey, Jacobsen, Kauffman, Keiser and McAuliffe

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1741 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. 1053, by Representatives Moeller, Williams, Conway, Wood, Chase and Hunt

Increasing raffle ticket prices. (REVISED FOR ENGROSSED: Concerning raffle ticket prices.)

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed House Bill No. 1053 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

POINT OF ORDER

Senator Hargrove: “Yes, I would like to ask the President to rule whether this bill constitutes an expansion of gambling and therefore requires a sixty percent vote under our state constitution.”

REPLY BY THE PRESIDENT

President Owen: "Senator Hargrove, the President has ruled on this in the past as to an increase in the amount that you can collect rather, and his, as a matter of fact preceding ruling says, 'precedence also hold that increases in dollar value alone such as the price of a raffle tickets do not constitute an expansion or a new form of gambling and do not require a super majority.' Therefore, the President believes that it takes a simple majority to pass this legislation. Senator Hargrove."

Senator Hargrove spoke against passage of the bill.

Senator Kohl-Welles spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1053.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1053 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 3; Absent, 0; Excused, 3.

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

Voting nay: Senators Fairley, Hargrove and Haugen

Excused: Senators Berkey, Jacobsen and McAuliffe

ENGROSSED HOUSE BILL NO. 1053, 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. 1402, by House Committee on Commerce & Labor (originally sponsored by Representatives Williams, Campbell, Conway, Moeller and Green)

Restricting contact with medical providers after appeals have been filed under industrial insurance.

The measure was read the second time.

MOTION

Senator Holmquist moved that the following amendment by Senators Holmquist, Kastama and King be adopted.

On page 1, line 8, after "after", strike "receipt of the notice of an appeal that has been filed under RCW 51.52.060(2)", and insert "an appeal has been filed under RCW 51.52.060(2), a conference has been held to schedule hearings, and the worker has named his or her witnesses"

On page 1, line 12, after "provider" insert "and has been named as a witness by the worker or the worker's representative"

On page 2, line 19, after "after" strike "receipt of the notice of an appeal under RCW 51.52.060(2)", and insert "an appeal has been filed under RCW 51.52.060(2), a conference has been held to schedule hearings, and the employer has named his or her witnesses"

On page 2, line 24, after "51.36.070" insert "and has been named as a witness by the employer or the employer's representative"

Senators Holmquist and Kastama spoke in favor of adoption of the amendment.

Senators Kohl-Welles and Marr spoke against adoption of the amendment.

Senator Schoesler demanded a roll call.

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

The President declared the question before the Senate to be the adoption of the amendment by Senators Holmquist, Kastama and King on page 1, line 8 to Substitute House Bill No. 1402.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senators Holmquist, Kastama and King and the amendment was not adopted by the following vote: Yeas, 21; Nays, 26; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Brandland, Carrell, Delvin, Haugen, Hewitt, Holmquist, Honeyford, Kastama, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Voting nay: Senators Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hobbs, Jarrett, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

Excused: Senators Berkey and Jacobsen

MOTION

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

On page 1, line 11, after "provider who", strike "has examined or treated" and insert "is currently treating"

On page 2, line 4, after "with" strike "the examining or treating medical providers" and insert "a treating medical provider"

On page 2, line 17, after "confirm the" strike "examining or"

On page 3, line 14, after "provider who", strike "as examined or treated" and insert "is currently treating"

On page 3, line 28, after "with" strike "the examining or treating medical providers" and insert "a treating medical provider"

On page 4, line 2, after "confirm the" strike "examining or"

Senators Parlette, King and Becker spoke in favor of adoption of the amendment.

Senators Kohl-Welles, Kline and Keiser spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Parlette on page 1, line 11 to Substitute House Bill No. 1402.

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

MOTION

Senator Holmquist moved that the following amendment by Senators Holmquist and King be adopted.

On page 3, line 9, after "after", strike everything through "witnesses" on line 12, and insert "receipt of the notice of an appeal that has been filed under RCW 51.52.060(2)"

On page 3, line 15, after "provider" strike "and has been named as a witness by the worker or their representative"

On page 4, line 4, after "after" strike everything through "witnesses" on line 7, and insert "receipt of the notice of an appeal that has been filed under RCW 51.52.060(2)"

Senator Holmquist spoke in favor of adoption of the amendment.

Senator Kline spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Holmquist and King on page 3, line 9 to Substitute House Bill No. 1402.

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

MOTION

Senator Hargrove moved that the following amendment by Senator Hargrove and others be adopted.

On page 5, after line 7, insert the following:

"(9) A medical provider who discusses issues on appeal with the department or with any employer or worker or representative of any employer or worker in violation of this section shall not be held liable for such communication."

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Hargrove and others on page 5, after line 7 to Substitute House Bill No. 1402.

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

MOTION

Senator Holmquist moved that the following amendment by Senators Holmquist and King be adopted.

On page 1, at the beginning of line 13, strike "authorization for contact is given by" and insert "notification is given to"

On page 1, line 14, after "representative." Strike everything through "signed." on line 16.

On page 2, line 6, after "written" strike "authorization from" and insert "notification to"

On page 2, line 7, after "has been" strike "obtained" and insert "provided"

On page 2, line 16, after "Written" strike "authorization" and insert "notification"

On page 2, line 23, after "written" strike "authorization for contact is given by" and insert "notification is given to"

On page 2, line 25, after "representative." Strike everything through "signed." on line 27.

On page 2, line 30, after "written" strike "authorization from" and insert "notification to"

On page 2, line 31, after "has been" strike "obtained" and insert "provided"

On page 3, line 4, after "Written" strike "authorization and insert "notification"

On page 3, at the beginning of line 17, strike "authorization for contact is given by" and insert "notification is given to"

On page 3, line 18, after "representative." Strike everything through "signed." on line 20.

On page 3, line 29, after "written" strike "authorization from" and insert "notification to"

On page 3, line 30, after "has been" strike "obtained" and insert "provided"

On page 4, line 1, after "Written" strike "authorization" and insert "notification"

On page 4, line 10, after "written" strike "authorization for contact is given by" and insert "notification is given to"

On page 4, line 11, after "representatives." Strike everything through "signed." on line 13.

On page 4, line 16, after "written" strike "authorization from" and insert "notification to"

On page 4, line 17, after "has been" strike "obtained" and insert "provided"

On page 4, line 26, after "Written" strike "authorization" and insert "notification"

On page 4, at the beginning of line 29, strike all of subsection (5).

Renumber the subsections consecutively and correct any internal references accordingly.

Senators Holmquist, Schoesler and Kastama spoke in favor of adoption of the amendment.

Senator Schoesler demanded a roll call.

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

The President declared the question before the Senate to be the adoption of the amendment by Senators Holmquist and King on page 1, line 13 to Substitute House Bill No. 1402.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senators Holmquist and King and the amendment was not adopted by the following vote: Yeas, 20; Nays, 27; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, Kastama, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Voting nay: Senators Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jarrett, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

Excused: Senators Berkey and Jacobsen

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 1402 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, Hargrove and McDermott spoke in favor of passage of the bill.

Senators Honeyford, King, Becker, Parlette and Holmquist spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1402 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1402 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 29; Nays, 18; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jarrett, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Shin and Tom

Voting nay: Senators Becker, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, Kastama, King, McCaslin,

Morton, Parlette, Pflug, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senators Berkey and Jacobsen

SUBSTITUTE HOUSE BILL NO. 1402 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 5:34 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Thursday, April 9, 2009.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate