

FIFTY-NINTH DAY

MORNING SESSION

Senate Chamber, Olympia, Wednesday, March 11, 2009

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

The Sergeant at Arms Color Guard consisting of Pages Alex Bassett and Calvin Foucault, presented the Colors. Senator Morton 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

March 10, 2009

MR. PRESIDENT:

The House has passed the following bills:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1009,
HOUSE BILL NO. 1197,
HOUSE BILL NO. 1287,
HOUSE BILL NO. 1374,
SUBSTITUTE HOUSE BILL NO. 1419,
SUBSTITUTE HOUSE BILL NO. 1435,
SUBSTITUTE HOUSE BILL NO. 1565,
SUBSTITUTE HOUSE BILL NO. 1597,
SUBSTITUTE HOUSE BILL NO. 1751,
HOUSE BILL NO. 1753,
SUBSTITUTE HOUSE BILL NO. 1776,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1879,
SUBSTITUTE HOUSE BILL NO. 1914,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1935,
SECOND SUBSTITUTE HOUSE BILL NO. 1985,
SUBSTITUTE HOUSE BILL NO. 2042,
SUBSTITUTE HOUSE BILL NO. 2052,
SUBSTITUTE HOUSE BILL NO. 2079,
SECOND SUBSTITUTE HOUSE BILL NO. 2119,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2126,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2254,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2267,
ENGROSSED HOUSE BILL NO. 2279,
SUBSTITUTE HOUSE BILL NO. 2287,

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

There being no objection, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 6121 by Senators Tom, Zarelli and Keiser

AN ACT Relating to the surcharge to fund biotoxin testing and monitoring; amending RCW 77.32.555; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

E2SHB 1007 by House Committee on Capital Budget (originally sponsored by Representatives Morris, Chase, Morrell, Lias, Anderson, Upthegrove, Seaquist, Hudgins and Moeller)

AN ACT Relating to creating a sustainable energy trust; amending RCW 43.180.020; adding a new section to chapter 43.180 RCW; and creating a new section.

Referred to Committee on Environment, Water & Energy.

2SHB 1021 by House Committee on Health & Human Services Appropriations (originally sponsored by Representatives Campbell, Morrell and Moeller)

AN ACT Relating to prior notice of hospital surveys and audits; and amending RCW 70.41.120 and 70.41.122.

Referred to Committee on Health & Long-Term Care.

E2SHB 1078 by House Committee on General Government Appropriations (originally sponsored by Representatives Kelley, Roach, Kirby, Warnick, Bailey and Sells)

AN ACT Relating to exchange facilitators; adding a new chapter to Title 19 RCW; creating a new section; prescribing penalties; and providing an expiration date.

Referred to Committee on Financial Institutions, Housing & Insurance.

2SHB 1081 by House Committee on Transportation (originally sponsored by Representatives Wallace, Ericksen, Clibborn, Armstrong, Moeller and Jacks)

AN ACT Relating to local improvement district financing of railroad crossing protection devices; and amending RCW 35.43.040.

Referred to Committee on Transportation.

ESHB 1123 by House Committee on Health Care & Wellness (originally sponsored by Representatives Campbell, Morrell, Hunter, Pedersen, Chase, Ormsby, Simpson, Wood and Conway)

AN ACT Relating to reducing the spread of methicillin-resistant staphylococcus aureus; amending RCW 43.70.056; and adding a new section to chapter 70.41 RCW.

Referred to Committee on Health & Long-Term Care.

ESHB 1131 by House Committee on Community & Economic Development & Trade (originally sponsored by Representatives Kenney, Pettigrew, Haler, Ericks, Bailey, Lias, Hasegawa, Hudgins, Darneille, Chase, Dunshee, Kelley, Sullivan and Nelson)

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AN ACT Relating to the Washington state economic development commission; amending RCW 43.162.010 and 43.162.020; and adding a new section to chapter 43.162 RCW.

Referred to Committee on Economic Development, Trade & Innovation.

HB 1184 by Representative Chase

AN ACT Relating to modifying the loan repayment period for conservation projects funded by municipal utilities; and amending RCW 35.92.360.

Referred to Committee on Environment, Water & Energy.

SHB 1201 by House Committee on Human Services (originally sponsored by Representatives O'Brien, Dickerson, Hurst and Appleton)

AN ACT Relating to the community integration assistance program; and amending RCW 71.24.470, 71.24.480, and 72.09.370.

Referred to Committee on Human Services & Corrections.

SHB 1300 by House Committee on Human Services (originally sponsored by Representatives Hurst, Dickerson, Pearson, Klippert, O'Brien and Smith)

AN ACT Relating to access to information on mental health services received by persons who have been committed for custody or supervision or who have been civilly committed after being found incompetent to stand trial for a felony; amending RCW 71.05.020, 71.05.390, 71.05.445, and 71.05.630; adding a new section to chapter 71.05 RCW; and creating a new section.

Referred to Committee on Ways & Means.

SHB 1321 by House Committee on Finance (originally sponsored by Representatives Kenney, McCoy, Haler, Chandler, Ericks, Ormsby, Hasegawa, Pettigrew, Walsh, Klippert and Armstrong)

AN ACT Relating to the tax on cleaning up radioactive waste and other by-products of weapons production and nuclear research and development; amending RCW 82.04.263; creating a new section; providing an effective date; and providing an expiration date.

Referred to Committee on Ways & Means.

SHB 1329 by House Committee on Ways & Means (originally sponsored by Representatives Pettigrew, Conway, Kagi, Hunt, Seaquist, Sells, Priest, Kenney, Ormsby, Wood, Haigh, White, Chase, Herrera, Morrell, Liias, Green, Cody, Appleton, Hasegawa, Carlyle, Simpson, McCoy, Sullivan, Orwall, Goodman, Campbell, Hudgins, Moeller, Nelson and Santos)

AN ACT Relating to improving quality, access, and stability of child care through providing collective bargaining for child care center directors and workers; amending RCW 41.56.028, 41.56.030, 41.56.113, 41.56.465, 41.04.810, 43.01.047, 43.215.350, and 74.15.020; reenacting and amending RCW 43.215.010; adding a new section to chapter 43.215 RCW; adding a new section to chapter

74.08A RCW; adding a new section to chapter 74.12 RCW; and creating new sections.

Referred to Committee on Ways & Means.

SHB 1347 by House Committee on Ways & Means (originally sponsored by Representatives Santos, Roach, Morrell, Moeller, Chase and Roberts)

AN ACT Relating to financial education; amending RCW 28A.300.450, 28A.300.460, 28A.300.465, and 28A.655.070; adding new sections to chapter 28A.300 RCW; and repealing RCW 28A.300.455, 28A.300.470, and 28A.230.205.

Referred to Committee on Ways & Means.

ESHB 1349 by House Committee on Human Services (originally sponsored by Representatives Green, Moeller, Dickerson, Cody and Kenney)

AN ACT Relating to additional grounds for renewal of orders for less restrictive treatment; amending RCW 71.05.320; and creating a new section.

Referred to Committee on Human Services & Corrections.

2SHB 1373 by House Committee on Health & Human Services Appropriations (originally sponsored by Representatives Dickerson, Kagi, Green, Cody, Darneille, Dunshee, Roberts, Goodman, Appleton, Kenney, Orwall, Hurst, Moeller, Takko, Chase, Rolfes, Carlyle, Simpson, Nelson, Conway and Ormsby)

AN ACT Relating to equitable access to appropriate and effective children's mental health services; and amending RCW 74.09.521.

Referred to Committee on Ways & Means.

HB 1395 by Representatives Wallace, Anderson, Hasegawa, Sells, Chase and Kenney

AN ACT Relating to clarifying terms for workforce and economic development; amending RCW 28B.50.030, 28B.50.273, 50.22.130, 50.22.150, 51.32.099, and 74.08A.250; and providing an expiration date.

Referred to Committee on Higher Education & Workforce Development.

SHB 1413 by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives McCoy, Nelson, Quall and Blake)

AN ACT Relating to water discharge fees; amending RCW 90.48.465; and creating new sections.

Referred to Committee on Environment, Water & Energy.

2SHB 1481 by House Committee on Finance (originally sponsored by Representatives Eddy, Crouse, McCoy, Haler, Carlyle, Armstrong, Hunt, White, Dunshee, Priest, Appleton, Orwall, Rolfes, Hudgins, Hinkle, Upthegrove, Clibborn, Morrell, Ormsby, Kenney, Maxwell, Dickerson and Pedersen)

AN ACT Relating to electric vehicles; amending RCW 43.19.648; adding a new section to chapter 82.29A RCW; adding a new section to chapter 82.08 RCW; adding a new

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section to chapter 82.12 RCW; adding a new section to chapter 79.13 RCW; adding a new section to chapter 43.21C RCW; adding a new section to chapter 35.63 RCW; adding a new section to chapter 35A.63 RCW; adding a new section to chapter 36.70 RCW; adding a new section to chapter 36.70A RCW; adding a new section to chapter 47.38 RCW; creating new sections; and providing expiration dates.

Referred to Committee on Transportation.

ESHB 1514 by House Committee on Health Care & Wellness (originally sponsored by Representatives Green, Hinkle, Cody and Morrell)

AN ACT Relating to adding and deleting counseling professions subject to the authority of the secretary of health under the uniform disciplinary act; amending RCW 18.130.040 and 18.130.040; and providing an effective date.

Referred to Committee on Health & Long-Term Care.

EHB 1530 by Representatives Kirby and Bailey

AN ACT Relating to creating the guaranteed asset protection waiver model act; amending RCW 63.14.010; adding a new chapter to Title 48 RCW; and prescribing penalties.

Referred to Committee on Financial Institutions, Housing & Insurance.

SHB 1572 by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Hunt, Liias, Appleton, Miloscia and Williams)

AN ACT Relating to all mail elections; amending RCW 29A.04.008, 29A.04.019, 29A.04.128, 29A.04.031, 29A.04.220, 29A.04.255, 29A.04.580, 29A.04.470, 29A.08.113, 29A.08.130, 29A.08.140, 29A.08.145, 29A.08.430, 29A.08.440, 29A.08.720, 29A.08.775, 29A.08.810, 29A.08.820, 29A.12.085, 29A.12.090, 29A.12.110, 29A.12.160, 29A.16.010, 29A.16.040, 29A.16.060, 29A.16.120, 29A.16.130, 29A.24.081, 29A.24.131, 29A.28.021, 29A.28.061, 29A.32.031, 29A.32.241, 29A.36.115, 29A.36.131, 29A.36.161, 29A.40.061, 29A.40.070, 29A.40.080, 29A.40.091, 29A.40.100, 29A.40.120, 29A.44.010, 29A.44.030, 29A.44.040, 29A.44.050, 29A.44.060, 29A.44.070, 29A.44.090, 29A.44.140, 29A.44.150, 29A.44.160, 29A.44.170, 29A.44.190, 29A.44.205, 29A.44.207, 29A.44.210, 29A.44.225, 29A.44.231, 29A.44.260, 29A.44.265, 29A.44.270, 29A.44.410, 29A.44.430, 29A.44.490, 29A.44.530, 29A.46.260, 29A.48.010, 29A.48.040, 29A.48.060, 29A.52.141, 29A.52.311, 29A.52.351, 29A.53.080, 29A.56.010, 29A.56.490, 29A.60.010, 29A.60.030, 29A.60.040, 29A.60.050, 29A.60.110, 29A.60.120, 29A.60.160, 29A.60.160, 29A.60.170, 29A.60.180, 29A.60.190, 29A.60.190, 29A.60.230, 29A.60.235, 29A.64.041, 29A.80.041, 29A.84.050, 29A.84.510, 29A.84.550, 29A.84.730, 36.83.110, 85.38.125, and 90.72.040; reenacting and amending RCW 29A.04.611, 29A.08.620, 29A.40.110, 29A.60.070, and 29A.60.165; adding new sections to chapter 29A.04 RCW; adding new sections to chapter 29A.48 RCW; adding a new section to chapter 29A.80 RCW; recodifying RCW 29A.40.061, 29A.40.070, 29A.40.080, 29A.40.091, 29A.40.100, 29A.40.110, 29A.40.120, 29A.40.150, and 29A.44.430; repealing RCW 29A.16.020, 29A.16.030, 29A.16.110, 29A.16.140,

29A.16.150, 29A.16.170, 29A.40.010, 29A.40.020, 29A.40.030, 29A.40.040, 29A.40.050, 29A.40.130, 29A.40.140, 29A.44.020, 29A.44.080, 29A.44.110, 29A.44.120, 29A.44.130, 29A.44.180, 29A.44.201, 29A.44.221, 29A.44.250, 29A.44.280, 29A.44.290, 29A.44.310, 29A.44.320, 29A.44.330, 29A.44.340, 29A.44.350, 29A.44.420, 29A.44.450, 29A.44.460, 29A.44.470, 29A.44.480, 29A.44.510, 29A.44.520, 29A.48.020, 29A.48.030, 29A.60.060, 29A.60.200, 29A.84.540, 29A.84.545, and 29A.84.680; providing effective dates; and providing an expiration date.

Referred to Committee on Government Operations & Elections.

HB 1579 by Representatives Appleton, Hasegawa and Nelson

AN ACT Relating to a business and occupation tax exemption for nonprofit organizations that provide legal services to low-income individuals; and adding a new section to chapter 82.04 RCW.

Referred to Committee on Ways & Means.

SHB 1621 by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Kirby, Bailey, Rodne, Nelson, Simpson and Moeller)

AN ACT Relating to regulating the business practices of consumer loan companies for compliance with the secure and fair enforcement for mortgage licensing act of 2008; amending RCW 31.04.015, 31.04.025, 31.04.035, 31.04.045, 31.04.102, 31.04.105, 31.04.145, and 31.04.165; adding new sections to chapter 31.04 RCW; creating a new section; and providing effective dates.

Referred to Committee on Financial Institutions, Housing & Insurance.

ESHB 1669 by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Hunt, Hasegawa, Appleton, Miloscia, Warnick, Kirby, Williams and Ormsby)

AN ACT Relating to the deposit of public funds; amending RCW 39.58.010, 35.38.060, 35.58.510, 36.48.060, and 43.08.280; adding new sections to chapter 39.58 RCW; and providing an effective date.

Referred to Committee on Financial Institutions, Housing & Insurance.

E2SHB 1701 by House Committee on Ways & Means (originally sponsored by Representatives Hudgins, McCoy and Hasegawa)

AN ACT Relating to authorizing the department of information services to engage in high-speed internet activities; amending RCW 43.105.350; adding new sections to chapter 43.105 RCW; and creating a new section.

Referred to Committee on Ways & Means.

ESHB 1703 by House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Pedersen, Green, White, Wood, Bailey, Moeller, Morrell, Walsh, Nelson and Kenney)

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AN ACT Relating to child immunization exemptions; and amending RCW 28A.210.090.

Referred to Committee on Health & Long-Term Care.

ESHB 1709 by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Nelson, White, Cody, Carlyle, Orwall, McCoy, Darneille and Ormsby)

AN ACT Relating to fee and installment plan assistance for borrowers at risk of default on small loans; amending RCW 31.45.010, 31.45.073, 31.45.084, and 42.56.230; adding new sections to chapter 31.45 RCW; creating new sections; and providing an effective date.

Referred to Committee on Labor, Commerce & Consumer Protection.

ESHB 1741 by House Committee on Education (originally sponsored by Representatives Darneille, Quall, Lias, Santos, Van De Wege, Goodman, Dickerson, Jacks, Hurst, Haigh, Pettigrew, Kenney, Dammeier and Morrell)

AN ACT Relating to crimes that require dismissal or certificate revocation for school employees; amending RCW 28A.400.320, 28A.400.330, 28A.405.470, 28A.410.090, 28A.410.110, 9.96A.020, and 43.43.845; adding a new section to chapter 28A.400 RCW; adding a new section to chapter 41.59 RCW; and adding a new section to chapter 41.56 RCW.

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

E2SHB 1747 by House Committee on Ways & Means (originally sponsored by Representatives Rolfes, Chase, Upthegrove, Hasegawa, Eddy, Lias, Ormsby, Pedersen, Dunshee, McCoy, Morris, Carlyle, Dickerson, Hudgins, Moeller, Sells, Kenney, White and Nelson)

AN ACT Relating to reducing climate pollution in the built environment; amending RCW 19.27A.020; adding new sections to chapter 19.27A RCW; and creating a new section.

Referred to Committee on Ways & Means.

ESHB 1883 by House Committee on Local Government & Housing (originally sponsored by Representatives Morris and Quall)

AN ACT Relating to creating regulatory restrictions applicable to metropolitan park districts; amending RCW 35.61.010, 35.61.020, 35.61.001, and 35.61.130; and adding a new section to chapter 35.61 RCW.

Referred to Committee on Government Operations & Elections.

ESHB 1889 by House Committee on Education (originally sponsored by Representatives Sullivan, Priest, Ormsby, Santos and Simpson)

AN ACT Relating to paraeducator tutors; adding a new section to chapter 28A.400 RCW; and creating a new section.

Referred to Committee on Ways & Means.

2SHB 1938 by House Committee on Health & Human Services Appropriations (originally sponsored by Representatives Roberts, Kagi, Angel, Walsh, Dunshee, Pettigrew, Green, Goodman, Haler and Kenney)

AN ACT Relating to children's interests in maintaining postadoption contact with their siblings; amending RCW 26.33.295 and 26.33.190; reenacting and amending RCW 13.34.136; and adding new sections to chapter 26.33 RCW.

Referred to Committee on Ways & Means.

ESHB 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)

AN ACT Relating to vehicle dealer documentary service fees; and amending RCW 46.70.180.

Referred to Committee on Transportation.

E2SHB 1961 by House Committee on Ways & Means (originally sponsored by Representatives Roberts, Haler, Pettigrew, Kagi, Carlyle, Pedersen and Wood)

AN ACT Relating to implementing the federal fostering connections to success and increasing adoptions act of 2008; amending RCW 74.13.031, 74.13.020, 74.13.031, and 13.34.234; adding a new section to chapter 13.34 RCW, creating a new section; providing an effective date; and providing an expiration date.

Referred to Committee on Human Services & Corrections.

EHB 1986 by Representatives Hasegawa, Anderson, Wallace, White and Sells

AN ACT Relating to peer mentoring; adding a new section to chapter 28B.12 RCW; and creating a new section.

Referred to Committee on Ways & Means.

SHB 2003 by House Committee on Education (originally sponsored by Representatives Orwall, Sullivan, Quall, Priest and Maxwell)

AN ACT Relating to the professional educator standards board membership and duties; amending RCW 28A.410.200, 28A.410.100, and 28A.410.210; adding a new section to chapter 28A.410 RCW; and providing an effective date.

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

SHB 2010 by House Committee on Capital Budget (originally sponsored by Representatives Dunshee and Nelson)

AN ACT Relating to state funding for local projects; amending RCW 43.155.070, 43.160.060, 43.160.900, 39.102.040, and 47.26.282; and creating a new section.

Referred to Committee on Ways & Means.

E2SHB 2021 by House Committee on Education Appropriations (originally sponsored by Representatives Kenney, Probst, Wallace, Sullivan, Priest, Maxwell, Chase,

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Ormsby, Hudgins, Jacks, Liias, White, Sells, Morrell, Kelley, Darneille, Wood and Roberts)

AN ACT Relating to revitalizing student financial aid; amending RCW 28B.92.060, 28B.92.030, 28B.15.0681, 28B.76.500, 28B.15.820, and 28B.12.060; adding a new section to chapter 28B.101 RCW; adding new sections to chapter 28B.92 RCW; adding a new section to chapter 28B.15 RCW; adding a new section to chapter 28B.12 RCW; adding a new chapter to Title 28B RCW; creating a new section; repealing RCW 28B.101.005, 28B.101.010, 28B.101.020, 28B.101.030, and 28B.101.040; providing effective dates; and providing an expiration date.

Referred to Committee on Ways & Means.

EHB 2040 by Representatives Conway and Condotta

AN ACT Relating to the work of the joint select committee on beer and wine regulation; amending RCW 66.28.180; adding new sections to chapter 66.28 RCW; and repealing RCW 66.28.010.

Referred to Committee on Labor, Commerce & Consumer Protection.

SHB 2095 by House Committee on Transportation (originally sponsored by Representatives Orwall, Finn, Upthegrove, Simpson, Rodne and Quall)

AN ACT Relating to clarifying the permitting, training, and licensing process for driver training schools; and amending RCW 46.82.280, 46.82.300, 46.82.310, 46.82.320, 46.82.325, 46.82.330, and 46.82.360.

Referred to Committee on Transportation.

2SHB 2106 by House Committee on Ways & Means (originally sponsored by Representatives Kagi, Roberts, Kenney and Morrell)

AN ACT Relating to improving child welfare outcomes through the phased implementation of strategic and proven reforms; adding a new section to chapter 74.13 RCW; and creating a new section.

Referred to Committee on Ways & Means.

2SHB 2113 by House Committee on Education Appropriations (originally sponsored by Representatives Kagi, Chase, Quall and Morrell)

AN ACT Relating to placements of students in residential habilitation centers; adding new sections to chapter 28A.190 RCW; and creating a new section.

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

2SHB 2114 by House Committee on Health & Human Services Appropriations (originally sponsored by Representatives Seaquist and Cody)

AN ACT Relating to establishing a forum for testing primary care medical home reimbursement pilot projects; adding new sections to chapter 70.54 RCW; creating a new section; and providing an expiration date.

Referred to Committee on Health & Long-Term Care.

2SHB 2130 by House Committee on Finance (originally sponsored by Representatives Probst, Jacks, Morris, Morrell, Kenney, Conway and Ormsby)

AN ACT Relating to tax incentives for renewable energy manufacturing facilities; amending RCW 82.32.5351; adding a new section to chapter 82.04 RCW; and creating a new section.

Referred to Committee on Ways & Means.

SHB 2147 by House Committee on Education (originally sponsored by Representatives Liias, Pettigrew, Quall, McCoy, Chase and Kenney)

AN ACT Relating to closing the achievement gap in order to provide all students an excellent and equitable education; adding a new section to chapter 28A.300 RCW; and creating a new section.

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

HB 2164 by Representatives Pettigrew, Haler, Santos, McCoy, Miloscia, Kagi, Hunt, Kenney, Sullivan, Darneille, Seaquist, Roberts, Chase, Hasegawa, Dickerson and Goodman

AN ACT Relating to evaluating selected child welfare practices to determine their impact on remediating racial disproportionality in Washington's child welfare system; adding a new section to chapter 13.34 RCW; and creating a new section.

Referred to Committee on Human Services & Corrections.

2SHB 2167 by House Committee on Ways & Means (originally sponsored by Representatives Maxwell, Priest, Green, Quall, Moeller, White, Orwall, Sullivan, Van De Wege, Liias and Probst)

AN ACT Relating to flexibility in the education system; amending RCW 28A.165.025, 28A.165.045, 28A.210.010, 28A.210.040, 28A.210.080, 28A.225.005, 28A.225.290, 28A.225.300, 28A.230.095, 28A.300.118, 28A.300.525, 28A.320.165, 28A.320.180, 28A.600.160, 28A.655.061, 28A.655.075, 17.21.415, and 28A.650.015; reenacting and amending RCW 28A.230.125; repealing RCW 28A.220.050, 28A.220.080, 28A.220.085, 28A.230.092, 28A.230.185, 28A.300.412, 28A.600.320, 28A.600.415, 28A.630.045, and 28A.630.881; and providing an expiration date.

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

SHB 2198 by House Committee on Transportation (originally sponsored by Representatives Hudgins, Hinkle, Van De Wege, Hasegawa, Takko, Jacks, Appleton, Williams, Chase, Eddy, Morris, Roberts and White)

AN ACT Relating to requiring the availability of child restraint systems by rental car businesses; amending RCW 46.87.023; and providing an effective date.

Referred to Committee on Transportation.

SHB 2223 by House Committee on Transportation

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MOTION

AN ACT Relating to commercial driver's license applicants who operate commercial motor vehicles for agribusiness purposes; amending RCW 46.25.060; and providing an expiration date.

Referred to Committee on Transportation.

E2SHB 2227 by House Committee on Education Appropriations (originally sponsored by Representatives Probst, Orwall, Santos, Nelson, Sullivan, Lias, Williams, Carlyle, Maxwell, Conway, Morrell, White, Goodman, Jacks, Kenney and Seaquist)

AN ACT Relating to green jobs; amending RCW 43.330.310; adding a new section to chapter 28B.50 RCW; adding a new section to chapter 28C.18 RCW; adding a new section to chapter 49.04 RCW; and creating new sections.

Referred to Committee on Economic Development, Trade & Innovation.

SHB 2275 by House Committee on Finance (originally sponsored by Representatives Kretz, Springer, Shea, Sullivan, Blake, Jacks, Warnick, Short, Hinkle, Schmick, Armstrong, Parker and McCune)

AN ACT Relating to a sales and use tax exemption for the nonhighway use of propane by farmers; amending RCW 82.08.865 and 82.12.865; providing an effective date; and providing an expiration date.

Referred to Committee on Ways & Means.

ESHB 2278 by House Committee on Finance (originally sponsored by Representatives Pettigrew, Chandler, Blake, Johnson, Bailey and Schmick)

AN ACT Relating to the sales and use tax exemption for livestock nutrient management equipment and facilities; and amending RCW 82.08.890 and 82.12.890.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

MOTION

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

SECOND READING

SENATE BILL NO. 5262, by Senators Kline, Brandland and Shin

Allowing law enforcement access to driver's license photographs for the purposes of identity verification.

MOTION

On motion of Senator Kline, Substitute Senate Bill No. 5262 was substituted for Senate Bill No. 5262 and the substitute bill was placed on the second reading and read the second time.

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

On page 2, after line 2, insert the following:

"(5) The department may make the file available to judicial officers for the purpose of verifying identity of an individual in a court proceeding. The department may make the file available only if the requesting judicial officer declares to the department that he or she has given notice to the parties that the request to the department will be made."

Senator 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 Senators Kline and Carrell on page 2, after line 2 to Substitute Senate Bill No. 5262.

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

MOTION

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

On page 1, line 1 of the title, after "enforcement" insert "and court"

MOTION

On motion of Senator Kline, the rules were suspended, Engrossed Substitute Senate Bill No. 5262 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

MOTION

On motion of Senator Brandland, Senator Pflug was excused.

MOTION

On motion of Senator Marr, Senators Brown, Fairley, Haugen, Kauffman and Rockefeller were excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5262.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5262 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 2; Excused, 3.

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

Absent: Senators Keiser and Kohl-Welles

Excused: Senators Fairley, Kauffman and Rockefeller

ENGROSSED SUBSTITUTE SENATE BILL NO. 5262, 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

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On motion of Senator Eide, Senators Keiser and Kohl-Welles were excused.

SECOND READING

SENATE BILL NO. 5332, by Senators Haugen, Swecker and Delvin

Administering the Washington state patrol retirement system. Revised for 1st Substitute: Addressing the administration of the Washington state patrol retirement system.

MOTIONS

On motion of Senator Swecker, Substitute Senate Bill No. 5332 was substituted for Senate Bill No. 5332 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Swecker, the rules were suspended, Substitute Senate Bill No. 5332 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Swecker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5332.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5332 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, 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, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Holmquist

Excused: Senators Fairley and Rockefeller

SUBSTITUTE SENATE BILL NO. 5332, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5115, by Senators Honeyford, Kline and Roach

Modifying the judicial conduct commission.

MOTIONS

On motion of Senator Honeyford, Substitute Senate Bill No. 5115 was substituted for Senate Bill No. 5115 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Honeyford, the rules were suspended, Substitute Senate Bill No. 5115 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5115.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5115 and the bill passed the Senate

by the following vote: Yeas, 45; Nays, 0; Absent, 2; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, 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, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Absent: Senators Brown and Tom

Excused: Senators Fairley and Rockefeller

SUBSTITUTE SENATE BILL NO. 5115, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5318, by Senators Kauffman, Kohl-Welles, Keiser, Jarrett and Franklin

Adding additional appropriate locations for the transfer of newborn children.

MOTIONS

On motion of Senator Kauffman, Substitute Senate Bill No. 5318 was substituted for Senate Bill No. 5318 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kauffman, the rules were suspended, Substitute Senate Bill No. 5318 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kauffman, Hargrove, Roach and Kohl-Welles spoke in favor of passage of the bill.

Senator Zarelli spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5318.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5318 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 7; Absent, 0; Excused, 2.

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

Voting nay: Senators Carrell, Delvin, Hewitt, Honeyford, McCaslin, Morton and Zarelli

Excused: Senators Fairley and Rockefeller

SUBSTITUTE SENATE BILL NO. 5318, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6068, by Senators Swecker, Haugen, King and Shin

Modifying the definition of "conviction" for the purposes of the uniform commercial driver's license act.

The measure was read the second time.

MOTION

On motion of Senator Haugen, the rules were suspended, Senate Bill No. 6068 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Haugen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6068.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6068 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, 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, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Absent: Senator Tom

Excused: Senator Rockefeller

SENATE BILL NO. 6068, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5698, by Senators Murray, Kohl-Welles and Delvin

Regulating soil and wetland science professions.

MOTIONS

On motion of Senator Murray, Substitute Senate Bill No. 5698 was substituted for Senate Bill No. 5698 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Murray, the rules were suspended, Substitute Senate Bill No. 5698 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5698.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5698 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 13; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Hewitt, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Pflug, Prentice, Pridemore, Ranker, Regala, Shin and Tom

Voting nay: Senators Becker, Carrell, Hatfield, Holmquist, Honeyford, King, Parlette, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senator Rockefeller

SUBSTITUTE SENATE BILL NO. 5698, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5705, by Senator Swecker

Regarding voting rights in special districts.

MOTIONS

On motion of Senator Swecker, Substitute Senate Bill No. 5705 was substituted for Senate Bill No. 5705 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Swecker, the rules were suspended, Substitute Senate Bill No. 5705 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Swecker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5705.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5705 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, 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, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator Rockefeller

SUBSTITUTE SENATE BILL NO. 5705, 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 and Murray were excused.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Hatfield moved that Gubernatorial Appointment No. 9149, Dan Newhouse, as Director of the Department of Agriculture, be confirmed.

Senators Hatfield, Delvin, McCaslin, Schoesler, King, Honeyford, Kline and Morton spoke in favor of passage of the motion.

APPOINTMENT OF DAN NEWHOUSE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9149, Dan Newhouse as Director of the Department of Agriculture.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9149, Dan Newhouse as Director of the Department of Agriculture and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford,

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Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brown, Murray and Rockefeller
Gubernatorial Appointment No. 9149, Dan Newhouse, having received the constitutional majority was declared confirmed as Director of the Department of Agriculture.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and former Representative and newly confirmed Director of Department of Agriculture, Dan Newhouse, who was seated in the gallery.

MOTION

At 10:23 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 10:31 a.m. by President Owen.

SECOND READING

SENATE BILL NO. 5931, by Senators Murray, Delvin and Kline

Regarding mental health counselor privilege. Revised for 1st Substitute: Regarding licensed mental health practitioner privilege.

MOTIONS

On motion of Senator Murray, Substitute Senate Bill No. 5931 was substituted for Senate Bill No. 5931 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Murray, the rules were suspended, Substitute Senate Bill No. 5931 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Murray and Delvin spoke in favor of passage of the bill.

MOTION

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5931.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5931 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Benton, Berkey, 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

SUBSTITUTE SENATE BILL NO. 5931, having received the constitutional majority, was declared passed. There being no

objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5886, by Senator Kline

Regulating legal proceedings involving public hazards.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that an informed public is better able to protect itself against risk of loss from public hazards and that, to have an informed public: (1) Access to reasonable information regarding public hazards is required; and (2) courts should not be used to shield information necessary to protect the safety of the public. The legislature further finds that the marketplace works most efficiently when competition is based on consumers being able to make fully informed choices about items placed in the stream of commerce. Therefore, the legislature intends there to be a presumption against the sealing of court documents relative to public hazards as defined in this act.

Sec. 2. RCW 4.24.611 and 1994 c 42 s 2 are each amended to read as follows:

As used in RCW 4.24.601 and this section:

(1)(a) "Product liability/substance claim" means a claim for damages for personal injury, wrongful death, or property damage caused by a ~~((product or hazardous or toxic substances, that is an alleged hazard to the public and that presents an alleged risk of similar injury to other members of the public))~~ public hazard.

(b) "Confidentiality provision" means any terms in a court order or a private agreement settling, concluding, or terminating a product liability/substance claim, that limit the possession, disclosure, or dissemination of information about ~~((an alleged hazard to the public))~~ a public hazard, whether those terms are integrated in the order or private agreement or written separately.

(c) "Members of the public" includes any individual, group of individuals, partnership, corporation, or association.

(d) "Public hazard" means a condition of a product that has caused, or can be reasonably expected to cause death or serious bodily harm or other serious harm to a person unaware of the condition.

(2) Except as provided in subsection (4) of this section, members of the public have a right to information necessary for a lay member of the public to understand the nature, source, and extent of the risk from alleged hazards to the public.

(3) Except as provided in subsection (4) of this section, members of the public have a right to the protection of trade secrets as defined in RCW 19.108.010, other confidential research, development, or commercial information concerning products or business methods.

(4)(a) Nothing in this chapter shall limit the issuance of any protective or discovery orders during the course of litigation pursuant to court rules. At the conclusion of the litigation, the court shall review all discovery or protective orders issued during litigation for compliance with this section.

(b) Confidentiality provisions may be entered into or ordered or enforced by the court only if the court finds, based on the evidence, that the confidentiality provision ~~((is in the public interest))~~ does not conceal the existence of a public hazard. In

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determining ~~((the public interest))~~ whether to allow a confidentiality provision to be entered, the court shall balance the right of the public to information regarding the alleged risk to the public from the product or substance as provided in subsection (2) of this section against the right of the public to protect the confidentiality of information as provided in subsection (3) of this section.

(c) No agreement between parties involving the final resolution of a case in litigation involving a public hazard may require a party to agree to withhold or remain silent on information regarding a public hazard as a condition of achieving a settlement of the litigation.

(5)(a) Any confidentiality provisions that are not adopted consistent with the provisions of this section are voidable by the court.

(b) Any confidentiality provisions that are determined to be void are severable from the remainder of the order or agreement notwithstanding any provision to the contrary and the remainder of the order or agreement shall remain in force.

(c) Nothing in RCW 4.24.601 and this section prevents the court from denying the request for confidentiality provisions under other law nor limits the scope of discovery pursuant to applicable court rules.

(6) In cases of third party actions challenging confidentiality provisions in orders or agreements, the court has discretion to award to the prevailing party actual damages, costs, reasonable attorneys' fees, and such other terms as the court deems just.

~~(7) ((The following acts or parts of acts are each repealed on May 1, 1994:~~

~~— (a) RCW 4.24.600 and 1993 c 17 § 1;~~

~~— (b) RCW 4.24.610 and 1993 c 17 § 2;~~

~~— (c) RCW 4.24.620 and 1993 c 17 § 3;~~

~~— (d) RCW 4.16.380 and 1993 c 17 § 5; and~~

~~— (e) 1993 c 17 § 4 (uncodified).))~~ Except for monetary damage claims reduced to final judgment by a superior court, this section applies to all causes of action that exist on or after July 1, 2009.

Sec. 3. RCW 4.24.601 and 1994 c 42 s 1 are each amended to read as follows:

The legislature finds that public health and safety is promoted when the public has knowledge that enables members of the public to make informed choices about risks to their health and safety. Therefore, the legislature declares as a matter of public policy that the public has a right to information necessary to protect members of the public from harm caused by ~~((alleged hazards to the))~~ a public hazard. The legislature also recognizes that protection of trade secrets, other confidential research, development, or commercial information concerning products or business methods promotes business activity and prevents unfair competition. Therefore, the legislature declares it a matter of public policy that the confidentiality of such information be protected and its unnecessary disclosure be prevented."

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

Senator Carrell spoke against adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kline and Hargrove to Senate Bill No. 5886.

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

MOTION

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

On page 1, line 1 of the title, after "hazards;" strike the remainder of the title and insert "amending RCW 4.24.611 and

4.24.601; and creating a new section."

MOTION

On motion of Senator Kline, the rules were suspended, Engrossed Senate Bill No. 5886 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 Engrossed Senate Bill No. 5886.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5886 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 8; Absent, 1; Excused, 0.

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

Voting nay: Senators Becker, Carrell, Delvin, Hewitt, Holmquist, Morton, Sheldon and Stevens

Absent: Senator Shin

ENGROSSED SENATE BILL NO. 5886, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

MOTION

Senator Jacobsen moved adoption of the following resolution:

SENATE RESOLUTION 8643

By Senators Jacobsen, Haugen, and Kohl-Welles

WHEREAS, The University of Washington Department of Scandinavian Studies started out as a cordial conversation between three Swedish-American students who wished to see their proud language taught at their university; and

WHEREAS, Carl E. Magnusson, professor of engineering, assisted the students in addressing the issue before the university's board of regents. The board received a petition with hundreds of signatures from Scandinavian residents and students wishing to have their native languages taught; and

WHEREAS, Magnusson was quoted saying, "Members of the legislature as well as candidates running for legislative offices were approached through letters and in personal interviews, and their cooperation was solicited." Legislation creating the department passed the Senate on March 10, 1909, and the House on March 11, 1909; and

WHEREAS, In 1910, David Nyvall was appointed as the first professor of Scandinavian by the board of regents. That first year, courses in Swedish, Norwegian, history of Norwegian and Danish literature, history of Swedish literature, and Old Norse grammar were taught; and

WHEREAS, In 1912, Edwin J. Vickner assumed the chair of the department, expanding course offerings and enrollment, and winning regional and national recognition. Vickner also

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pioneered the teaching of Scandinavian literature in English translation; and

WHEREAS, In 1994, the Baltic Studies program was established and the University of Washington became the only American university to teach the Estonian, Latvian, and Lithuanian languages every year, and is this year celebrating its fifteenth anniversary; and

WHEREAS, The department's library collection is now one of the nation's top five research collections and is considered the best all-around collection on the West Coast. The library has the most important Hans Christian Andersen collection outside of Denmark; its Faroese and Latvian collections are regarded as the most noteworthy in the United States; and

WHEREAS, To this day, the department remains just one of a few that was created specifically at the request and perseverance of our state's citizens;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor the Department of Scandinavian Studies on its one hundredth anniversary for continuing to preserve and cultivate the Scandinavian and Baltic cultures not only in the state of Washington, but the entire United States of America.

Senators Jacobsen, Kohl-Welles and Shin spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8643.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced faculty staff of the University of Washington's Department of Scandinavian Studies and supporters who were seated in the gallery.

PERSONAL PRIVILEGE

Senator Jacobsen: "As the President was dealing with those names I recall the campaign event. My very first campaign I was running I agreed to work with Nita Rinehart and Marlin Applewick and we were going to hand out each other's campaign pieces and, Applewick should really should be Applewick but the customs changed his name to 'wick', so anyway I was out there handing the three pieces to this lady at this house. She didn't know who I was yet but she saw those three names. She pointed at the name Jacobsen and said, 'Ah, at last a good American name.'"

MOTION

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

SECOND READING

SENATE BILL NO. 5735, by Senators Rockefeller, Hargrove, Jacobsen, Ranker, Fraser, Keiser, Jarrett, Franklin, Shin, Kohl-Welles, Regala, McAuliffe and Kline

Reducing greenhouse gas emissions.

MOTION

On motion of Senator Marr, Second Substitute Senate Bill No. 5735 was substituted for Senate Bill No. 5735 and the second substitute bill was placed on the second reading and read the second time.

MOTION

Senator Rockefeller moved that the following striking amendment by Senators Pridemore and Hargrove be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1 FINDINGS. (1) The legislature reaffirms the state limits on greenhouse gas emissions adopted in RCW 70.235.020. Despite the recent economic downturn, the output of greenhouse gas emissions continues. It remains essential to fashion a long-term strategy for reduction of greenhouse gas emissions, consistent with previously enacted reduction goals of the state. The legislature further finds that full implementation of current policies regarding energy efficiency, new clean energy technologies, efficient building practices, new energy efficient transportation technologies, and other policies and programs may achieve nearly one-half of the estimated statewide emissions reductions needed to meet the state's 2020 emissions limits, but that additional reduction strategies will be needed.

(2) Therefore, it is the intent of the legislature by this act to provide a thorough review and set of recommendations to the 2011 legislature regarding the merits of implementing a multisector emissions reduction program in the state, as well as recommended additional complementary policies to achieve the state's emission reduction requirements.

NEW SECTION. Sec. 2 POLICY DECLARATION. When presenting the state's position on any regional or national emissions reduction program that relies on a multisector, market-based approach to regulating greenhouse gas emissions, the state shall adhere to the following policies:

(1) Assuring that biomass combustion for electricity or process steam production is considered carbon neutral;

(2) Assuring equitable economic benefits and opportunities for electric utilities operating in Washington that use hydroelectric generation;

(3) Recognition must be provided to those emissions sources that have taken early action to reduce their emissions;

(4) That the state's forest and agricultural lands that are managed in ways that increase carbon sequestration be recognized for the use of offsets to regulatory limits on emissions; and

(5) Assuring the protection of low and moderate income households.

NEW SECTION. Sec. 3 EMISSIONS CAPS. (1) In order to assist Washington in meeting the requirements in RCW 70.235.020, the department of ecology shall recommend a greenhouse gas emissions reduction program that sets statewide and sector emission caps for persons that annually emit at or above twenty-five thousand metric tons of carbon dioxide equivalents. The emissions reduction program must recognize early actions, complementary policies, and offsets as specified in section 5 of this act. The emissions reduction program must include protocols for directing technical and financial incentives to those persons who monitor and demonstrate their emissions reductions. No element of the program recommendations in this section may be implemented unless specifically authorized by a future act of the legislature.

(2) The department of ecology's recommendations must include the following program design elements:

(a) Phase one of the emissions reduction program should be designed to begin in 2012 and covers the following sectors: (i) Electricity generated in the state or generated out-of-state and delivered to the state by long-term financial commitments under chapter 80.80 RCW; (ii) industrial and commercial fuel combustion; and (iii) industrial process emissions;

(b) Phase two of the emissions reduction program should be designed to begin in 2015 and covers the following sectors: (i) Transportation fuel combustion; (ii) residential fuel combustion; and (iii) fuel delivered or sold for industrial and commercial combustion where the fuel is used by persons not otherwise

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covered by the program in 2012. Phase two of the program may include complementary measures, except that measures for transportation fuels must focus on emissions reductions, not raising revenues, and consideration must be given to differing rural and urban circumstances;

(c) For each compliance period, emissions caps must decline evenly in each sector until the state greenhouse gas emissions are reduced as required by RCW 70.235.020;

(d) Except for purposes of reporting, the following carbon dioxide emissions are not covered by the program:

(i) Emissions from industrial combustion of biomass in the form of fuel wood, wood waste, wood by-products, and wood residuals as long as the region's silvicultural sequestration capacity is maintained or increased; and

(ii) Emissions from the combustion of biofuels or the biofuel component of blended fuels as the term "biofuel" is defined in RCW 43.325.010; and

(e) No more than forty-nine percent of a sector's total emissions reductions from 2012 to 2020 may be satisfied with offsets.

(3) The recommendations in this section must be submitted to the appropriate committees of the legislature by December 1, 2010.

NEW SECTION. Sec. 4. ALTERNATIVE STRATEGIES FOR ACHIEVING EMISSIONS REDUCTIONS. (1) The department of ecology shall report to the legislature on alternative strategies the state may implement to meet the requirements in RCW 70.235.020. The report must include the following: A comprehensive examination of all measures, not market-based, that the state could employ to reduce the emissions of greenhouse gases, such as:

(a) Regulatory emissions caps and other performance oriented regulations;

(b) Economic and fiscal measures that would supplement a regulatory approach;

(c) Measures for substantially reducing greenhouse gas emissions from the electricity sector, including measures to facilitate the transition from electricity generation derived from any coal-fired facility to generation with significantly reduced emissions;

(d) Measures for reducing transportation emissions in urban areas of the state, including programs providing incentives and assistance for the deployment of electric vehicles and the necessary infrastructure for such vehicles and policies directing the increased use of these vehicles within state agency fleets; and

(e) Measures for reducing emissions by increasing energy efficiency in buildings and commercial and industrial applications.

(2) The report must include an analysis of the alignment of policies and standards among the participating jurisdictions in the western climate initiative.

(3) The report must include recommendations for establishing a performance auditing mechanism to monitor the effectiveness of emissions reduction strategies.

(4) The report must include recommendations on complementary measures the state may undertake to supplement a national emissions reduction program.

(5) The report must incorporate an economic analysis by the forecasting office of the office of financial management, in consultation with members of the governor's council of economic advisors, of the impact to Washington consumers, businesses, and citizens if Washington entered into a regional or federal emissions reduction program. The economic analysis must include:

(a) Various economic scenarios, such as when Washington has a robust economy and when Washington is in an economic downturn;

(b) The economic impact sector by sector, including the impact to the forest products manufacturing sector and Washington's port districts;

(c) How to address trade competition from countries and states that are not participating in an emissions reduction program;

(d) How to ensure that economic benefits are available to both urban and rural communities; and

(e) The impact on the cost and affordability of food, housing, energy, transportation, and other routine expenses on low and moderate-income households.

(6) The report must be submitted to the appropriate committees of the legislature by December 1, 2010.

NEW SECTION. Sec. 5. OFFSETS. (1) The department of ecology shall recommend criteria for issuing and accepting offset credits for offset projects that may be used to meet a person's compliance obligation in a state, regional, or national emissions reduction program. The department must give priority to investigating and developing criteria for offset projects within the forestry, agriculture, and waste management sectors, but must also develop criteria for recognizing offsets from all sources of emissions reductions that are additional to existing regulatory requirements and that are reductions beyond business as usual emission levels. The department shall present the state's policy on forestry offset projects established under section 6 of this act as the state's position when developing the criteria for forestry offset projects within any other regional or national cap and trade emissions reduction program.

(2) With regard to forestry offsets, the department of ecology must give first priority for issuing offset credits for forestry offset projects located in Washington. Second priority must be given to offset projects within Washington, Oregon, Idaho, and Montana. Third priority must be given to offset projects that are located in any other jurisdiction in the United States. One offset credit must be issued for up to each metric ton of emissions as measured in carbon dioxide equivalent associated with an offset project.

(3) Except as provided in this section, the department of ecology may accept offset credits for compliance purposes from other jurisdictions as well as annex 1 countries from the United Nations framework convention on climate change, but only if an offset project is not available in Washington.

(4) The department of ecology may also accept for compliance purposes offset credits from developing countries, but only if an offset project is not available in Washington. Offset credits from developing countries must be in accordance with the clean development mechanism of the Kyoto protocol or if the clean development mechanism is replaced, a protocol developed by the department. The department may develop criteria for these offset projects to ensure similar rigor to offset projects within the state.

(5) Any offset credit that is used to meet a compliance obligation must conform to the rules adopted by the department of ecology.

(6) Upon receipt by the department of ecology of an offset credit to meet a compliance obligation, the department shall retire the offset credit.

(7) The department of ecology shall ensure that all offset credits that it issues are tracked to ensure that the department knows who holds a given offset credit and when it is retired.

(8) The department of ecology shall consult with tribal governments upon request on any offset criteria that may affect tribal governments, such as the voluntary development of offset projects by tribes.

(9) The recommendations in this section must be submitted to the appropriate committees of the legislature by December 1, 2010.

NEW SECTION. Sec. 6. FORESTRY OFFSET POLICY. The department of ecology, in consultation with the forest

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practices board, the department of natural resources, and the forest carbon working group, shall develop the state's policy for forestry offset projects within Washington. The agencies and the working group shall use the 2008 report of the forest carbon working group as the starting point in developing the policy. The final policy must be completed by December 31, 2009, unless the department of ecology notifies the agencies and working group that the policy is needed sooner. The public must be provided with the opportunity to review and comment on the policy as it is developed. The policy must include:

(1) Specific standards and guidelines that will support carbon accounting in managed forests participating in an offset program;

(2) How to ensure that any carbon that is reduced or sequestered by a forestry offset project will be eligible for an offset credit within a regional or national cap and trade emissions reduction program;

(3) Recognition of management activities that increase carbon stocks including, but not limited to, thinning, lengthening rotations, increased retention of trees after harvest, fertilization, genetics, timber stand improvement, fire management, and specific site class and productivity of a managed forest;

(4) Specific standards and guidelines to support wood products accounting, recognizing that carbon is stored in products after trees are harvested including the use of the one hundred year method which estimates the amount of carbon stored in the wood products that are projected to remain in use after one hundred years;

(5) Guidelines on how forestry offset projects and forestry financial incentive programs can work together so that Washington's forest landowners will not be disadvantaged in comparison to other jurisdictions participating in a regional or national cap and trade emissions reduction program; and

(6) Recommendations for how to verify or certify carbon stocks that will not be administratively burdensome.

NEW SECTION. Sec. 7. FINANCIAL INCENTIVES FOR FORESTRY. The department of ecology, in consultation with the forest practices board, the department of natural resources, and the forest carbon working group, shall develop and deliver to the legislature by December 1, 2010, legislation to implement a financial incentives program for forestry and forest products that will recognize activities such as:

(1) Forest landowners maintaining and actively managing their forest land using management activities such as thinning, lengthening of rotations, increased retention of trees at harvest, fertilization, genetics, timber stand improvement, and fire management;

(2) Forest landowners continuing the production of wood products while maintaining or increasing their carbon stocks on the ground;

(3) Retention by forest landowners of high carbon stocks where there is no obligation to retain such stocks; and

(4) The use by developers and builders of wood building materials instead of more intensive fossil fuel products such as concrete and steel.

NEW SECTION. Sec. 8. WESTERN CLIMATE INITIATIVE. The director of the department of ecology is authorized to continue discussions with other jurisdictions in the western climate initiative.

NEW SECTION. Sec. 9. A new section is added to chapter 47.38 RCW to read as follows:

(1) As a necessary and desirable step to expedite the transition to transportation technologies and infrastructure with reduced emissions, the department shall implement an electric vehicle and alternative fuel vehicle infrastructure program that accelerates planning and allocation of funding for pilot projects to demonstrate the feasibility of large scale deployment of charging and alternative fuels distribution infrastructure. The

program must include the provisions in this section and other electric vehicle programs being implemented by the department.

(2) The governor shall direct the department, in collaboration with the states of Oregon and California, to develop a multistate electric vehicle infrastructure initiative. The objective of the initiative is to implement large scale demonstration projects that support the charging and other necessary infrastructure for electric vehicles along shared interstate highways and in major urban areas in the three states. The governor shall work in a multistate collaboration to seek major federal funding for planning and projects in the initiative.

(3) As an element of the program authorized under this section, the legislature authorizes an alternative fuels corridor pilot project capable of supporting electric vehicle charging and battery exchange technologies. To the extent permitted under federal programs, regulations, or laws, the department may enter into partnership agreements with other public and private entities for the use of land and facilities along state routes and within interstate highway rights-of-way for an alternative fuels corridor pilot project. The pilot project may allow for commercial activities only as necessary to attain basic economic sufficiency. The department is not responsible for providing capital equipment nor operating refueling or recharging services. At a minimum, the pilot project must:

(a) Limit renewable fuel and vehicle technology offerings to those with a forecasted demand over the next fifteen years and approved by the department;

(b) Ensure that a pilot project site does not compete with existing retail businesses for the provision of the same refueling services or recharging technologies in the same geographic area;

(c) Provide existing truck stop operators and retail truck refueling businesses with an absolute right of first refusal over the offering of refueling services to class six trucks with a maximum gross vehicle weight of twenty-six thousand pounds within the same geographic area identified for a possible pilot project site;

(d) Reach agreement with the department of services for the blind ensuring that any commercial activities at host sites do not materially affect the revenues forecasted from their vending operations at each site;

(e) Regulate the internal rate of return from the partnership, including provisions to reduce or eliminate the level of state support once the partnership attains economic self-sufficiency;

(f) Be limited to not more than five locations on state-owned land within federal interstate rights-of-way or state highway rights-of-way in Washington; and

(g) Be limited in duration to a term of years reasonably necessary for the partnership to recover the cost of capital investments, plus the regulated internal rate of return.

NEW SECTION. Sec. 10. A regional transportation planning organization containing any county with a population in excess of one million in collaboration with representatives from the department of ecology, the department of transportation, the department of community, trade, and economic development, local governments, and the office of regulatory affairs must seek federal or private funding for the planning for, deployment of, or regulations concerning electric vehicle infrastructure.

NEW SECTION. Sec. 11. ACCOUNT CREATED. The emissions reduction assistance account is created in the state treasury. All appropriations to the account and twenty-five percent of all federal funds received pursuant to H.R. 1, P.L. 111-5 for the purpose of assisting with energy efficiency and renewable energy, including federal funds received for the state energy program, must be deposited in the account. Other funds, gifts, grants, and endowments from public or private sources, in trust or otherwise, may be directed into the account. Any moneys received from sponsor match payments must be deposited in the account. Moneys in the account may be spent

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only after appropriation. Expenditures from the account may be used for:

- (1) Assisting persons in achieving emissions reductions under section 3 of this act;
- (2) Assisting the transition of coal-fired facilities to cleaner-burning technologies;
- (3) Reducing price impacts for consumers with incomes within two hundred fifty percent of the federal poverty level;
- (4) Strategies to create jobs and provide for worker transition, especially in and for those communities and workers that have been disproportionately affected by economic downturns, through efforts to reduce emissions, reduce energy use, and develop clean energy supplies;
- (5) Supporting transit and transportation projects that will reduce greenhouse gas emissions;
- (6) Energy efficiency and renewable energy incentives including matching electric utility sponsored programs that support customer energy efficiency investment, new renewable energy resource development, including related transmission, energy storage, and integration technologies;
- (7) Promoting emissions reductions and carbon sequestration in agriculture, forestry, waste management, and other uncapped sectors;
- (8) Efforts funded by local governments to reduce community greenhouse gas emissions;
- (9) Adaptation to climate change impacts, including impacts on affected species, habitats, and communities; and
- (10) Research, development, demonstrations, and deployment of technology to reduce greenhouse gas emissions.

NEW SECTION. Sec. 12. Captions used in this act are not any part of the law.

NEW SECTION. Sec. 13. Sections 2 and 11 of this act are each added to chapter 70.235 RCW.

NEW SECTION. Sec. 14. This act shall be in effect only to the extent that funds are specifically appropriated for the purposes of this act."

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

MOTION

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

On page 1, line 22, after "Policy Declaration." strike everything through line 9 on page 2 and insert the following language:

"(1) The Department of Ecology is authorized to continue its participation in the western climate initiative as initiated by the western regional climate action initiative signed by the governor on February 26, 2007, subject to conditions set forth in subsection (2) of this section.

(2) The state's participation in the development of a regional cap and trade program, and its efforts to inform congress of the state's position regarding elements of a national cap and trade program, will be directed by the following policies:

- (a) No allowances may be auctioned by the state while Washington participates in a regional cap and trade program;
- (b) Biomass combustion for electricity or process steam production is carbon neutral;
- (c) The point of regulation for the electricity sector in Washington may only be imposed upon the source of emissions located within the state;
- (d) New entrants must be encouraged, but not to the detriment of existing covered entities and sectors;
- (e) Combustion of residential and commercial fuel must be regulated outside a cap and trade program through complementary policies that promote energy efficiency;
- (f) A mechanism must be developed to protect the financial integrity of the state's electric utilities that derive more than ten

percent of their supply from hydropower facilities by mitigating their cost of compliance as a result of low water conditions, but not by setting aside allowances in a manner that reduces the allocation of allowances to other covered entities or sectors;

(g) Early actions taken by regulated and potentially regulated entities to reduce their greenhouse gas emissions prior to the implementation of a national or regional cap and trade system must be recognized;

(h) Offset criteria must recognize the vital contribution that the sequestration of greenhouse gases by forestry, forest products and agricultural sectors in the state can make to sustaining an effective means for regulated entities to comply with greenhouse gas reduction requirements in a cost effective manner;

(i) Cost containment and market design mechanisms must be included in a cap and trade system to protect the state's economy from volatile and escalating costs of allowances or offsets; and

(j) A national cap and trade system must take precedence over a regional cap and trade program."

On page 7, line 23, strike all of section 8 through line 25 and renumber the remaining sections of the bill accordingly.

Senator Honeyford spoke in favor of adoption of the amendment to the striking amendment.

Senator Rockefeller spoke against adoption of the amendment to the striking amendment.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

MOTION

On motion of Senator Regala, Senator Haugen was excused.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 1, line 22 to the striking amendment to Second Substitute Senate Bill No. 5735.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Honeyford to the striking amendment and the amendment was not adopted by the following vote: Yeas, 19; Nays, 28; Absent, 1; Excused, 1.

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

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

Absent: Senator Brandland

Excused: Senator Haugen

MOTION

On motion of Senator Schoesler, Senator Brandland was excused.

MOTION

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

On page 2, after line 9, strike all of section 3.

Renumber the sections consecutively and correct any internal references accordingly.

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

Senators Rockefeller and Marr spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Delvin on page 2, after line 9 to the striking amendment to Second Substitute Senate Bill No. 5735.

The motion by Senator Delvin failed and the amendment to the striking amendment was not adopted by a rising vote.

MOTION

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

On page 3, line 21, after The, strike the department of ecology, and insert "William D. Ruckelshaus Center"

Senators Honeyford, Delvin and Parlette spoke in favor of adoption of the amendment to the striking amendment.

Senators Rockefeller, Marr and Fraser spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 3, line 21 to the striking amendment to Second Substitute Senate Bill No. 5735.

The motion by Senator Honeyford failed and the amendment to the striking amendment was not adopted by a rising vote.

MOTION

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

On page 7, after line 22, strike all of section 8.

Re-number the sections consecutively and correct any internal references accordingly.

Senator Honeyford spoke in favor of adoption of the amendment to the striking amendment.

Senator Rockefeller spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 7, after line 22 to the striking amendment to Second Substitute Senate Bill No. 5735.

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

MOTION

Senator Haugen moved that the following amendment by Senators Haugen and Swecker to the striking amendment be adopted.

On page 9, after line 9 of the amendment, insert the following:

"(4) The department of transportation's obligations under this section are subject to availability of amounts appropriated for the specific purpose identified in this section."

Senators Haugen and Rockefeller spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Haugen and Swecker on page 9, after line 9 to the striking amendment to Second Substitute Senate Bill No. 5735.

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

MOTION

Senator Haugen moved that the following amendment by Senators Haugen, Jacobsen and Swecker to the striking amendment be adopted.

On page 9, line 28 of the amendment, after "for", insert "the following purposes, however at least ten percent of the revenues in the account must be used for the purposes identified in subsection (5) of this section"

On page 10, line 4 of the amendment, after "projects" insert ", including telework projects."

Senators Haugen and Rockefeller spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Haugen, Jacobsen and Swecker on page 9, line 28 to the striking amendment to Second Substitute Senate Bill No. 5735.

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

MOTION

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

On page 10, after line 18, insert the following:

"NEW SECTION, Sec. 12. The department shall adopt by rule criteria for issuing early reduction allowances to sectors proposed to be covered under the regional cap and trade program. The department shall present the state's policy on early reduction allowances established under this section as the state's position when developing the criteria for early reduction allowances within the regional cap and trade program and to inform congress of the state's position to be considered in a national cap and trade program.

(2) The department shall adopt by rule criteria for issuing early action credits. The department shall review and approve applications submitted by persons for emission reductions made after January 1, 1990, and prior to January 1, 2008, provided those emission reductions were achieved for the purposes of reducing greenhouse gas emissions, increasing renewable energy use, or increasing energy efficiency in product manufacturing. If early reduction credits are offered in a form other than allowances, the department shall request authorization from the legislature for providing an appropriate form of credit for early actions."

Re-number the sections consecutively and correct any internal references accordingly.

Senator Honeyford spoke in favor of adoption of the amendment to the striking amendment.

Senator Rockefeller spoke against adoption of the amendment to the striking 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 Senator Honeyford on page 10, after line 18 to the striking amendment to Second Substitute Senate Bill No. 5735.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Honeyford to the striking amendment and the amendment was not adopted by the following vote: Yeas, 19; Nays, 29; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Carrell, Delvin, Hatfield, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens,

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

Excused: Senator Brandland

MOTION

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

On page 10, line 23, after "Sec. 14." strike "This act shall be in effect only to the extent that funds are specifically appropriated for the purposes of this act." and insert the following:

"If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2009, in the omnibus appropriations act, this act is null and void."

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

Senators Rockefeller and Marr spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Benton on page 10, line 23 to the striking amendment to Second Substitute Senate Bill No. 5735.

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Pridemore and Hargrove as amended to Second Substitute Senate Bill No. 5735.

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

MOTION

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

On page 1, line 1 of the title, after "emissions;" strike the remainder of the title and insert "adding a new section to chapter 47.38 RCW; adding new sections to chapter 70.235 RCW; and creating new sections."

MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5735 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller, Kastama, Hargrove, Pridemore, Marr and Brown spoke in favor of passage of the bill.

Senators Honeyford, Holmquist, Schoesler, Delvin, Sheldon and Carrell spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5735.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5735 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 19; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr,

McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

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

Excused: Senator Brandland

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5735, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced the Dairy Ambassadors representing the State Dairy Federation who were seated in the gallery.

SECOND READING

SENATE BILL NO. 5895, by Senators Tom, Kohl-Welles, Fraser and McDermott

Addressing residential real property construction improvements through consumer education, warranty protections, legal remedies, municipal liability, third-party inspections, contractor registration requirements, worker certification standards, and bonding requirements. Revised for 2nd Substitute: Addressing residential real property construction improvements through warranty protections, legal remedies, third-party inspections, contractor registration requirements, worker certification standards, and bonding requirements.

MOTION

On motion of Senator Tom, Second Substitute Senate Bill No. 5895 was substituted for Senate Bill No. 5895 and the second substitute bill was placed on the second reading and read the second time.

MOTION

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

On page 4, line 17 after "entity," insert "'Construction professional" does not include a supplier of materials who has otherwise had no involvement in performing or furnishing the design, supervision, inspection, construction, or observation of the construction, of any improvement to residential real property."

WITHDRAWAL OF AMENDMENT

On motion of Senator Honeyford, the amendment by Senator Honeyford on page 4, line 17 to Second Substitute Senate Bill No. 5895 was withdrawn.

MOTION

Senator Holmquist moved that the following striking amendment by Senators Holmquist and King be adopted. Strike everything after the enacting clause and insert the following:

"PART 1. NOTICE AND RIGHT TO CURE

Sec. 1. RCW 64.50.010 and 2002 c 323 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

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(1) "Action" means any civil lawsuit or action in contract or tort for damages or indemnity brought against a construction professional to assert a claim, whether by complaint, counterclaim, or cross-claim, for damage or the loss of use of real or personal property caused by a defect in the construction of a residence or in the substantial remodel of a residence. "Action" does not include any civil action in tort alleging personal injury or wrongful death to a person or persons resulting from a construction defect.

(2) "Association" means an association, master association, or subassociation as defined and provided for in RCW 64.34.020(4), 64.34.276, 64.34.278, and 64.38.010(1).

(3) "Claimant" means a homeowner or association who asserts a claim against a construction professional concerning a defect in the construction of a residence or in the substantial remodel of a residence.

(4) "Construction professional" means an architect, builder, builder vendor, contractor, subcontractor, engineer, or inspector, including, but not limited to, a dealer as defined in *RCW 64.34.020(12) and a declarant as defined in *RCW 64.34.020(13), performing or furnishing the design, supervision, inspection, construction, or observation of the construction of any improvement to real property, whether operating as a sole proprietor, partnership, corporation, or other business entity.

(5) "Homeowner" means: (a) Any person, company, firm, partnership, corporation, or association who contracts with a construction professional for the construction, sale, or construction and sale of a residence; and (b) an "association" as defined in this section. "Homeowner" includes, but is not limited to, a subsequent purchaser of a residence from any homeowner.

(6) "Residential construction board claim" means a claim of construction defect for a residence for which either the claimant or the construction professional in good faith believes can be remedied for a total cost of fifty thousand dollars or less.

(7) "Residence" means a single-family house, duplex, triplex, quadraplex, or a unit in a multiunit residential structure in which title to each individual unit is transferred to the owner under a condominium or cooperative system, and shall include common elements as defined in RCW 64.34.020(6) and common areas as defined in RCW 64.38.010(4).

~~((7))~~ (8) "Response notice" means a written response provided by a construction professional pursuant to RCW 64.50.020(2).

(9) "Serve" or "service" means personal service or delivery by certified mail to the last known address of the addressee.

~~((8))~~ (10) "Substantial remodel" means a remodel of a residence, for which the total cost exceeds one-half of the assessed value of the residence for property tax purposes at the time the contract for the remodel work was made.

Sec. 2. RCW 64.50.020 and 2002 c 323 s 3 are each amended to read as follows:

(1) In every construction defect action brought against a construction professional, the claimant shall, no later than forty-five days before filing an action, serve written notice of claim on the construction professional. The notice of claim shall state that the claimant asserts a construction defect claim against the construction professional and shall describe the claim in reasonable detail sufficient to determine the general nature of the defect.

(2) Within twenty-one days after service of the notice of claim, the construction professional shall serve a written response notice on the claimant by registered mail or personal service. The written response notice shall:

(a) Propose to inspect the residence that is the subject of the claim, including a description of the scope of the inspection, and to complete the inspection within a specified time frame. The proposal shall include the statement that the construction professional shall, based on the inspection, offer to remedy the

defect, compromise by payment, or dispute the claim;

(b) Offer to compromise and settle the claim by monetary payment without inspection. A construction professional's offer under this subsection (2)(b) to compromise and settle a homeowner's claim may include, but is not limited to, an express offer to purchase the claimant's residence that is the subject of the claim, and to pay the claimant's reasonable relocation costs; or

(c) State that the construction professional disputes the claim and will neither remedy the construction defect nor compromise and settle the claim.

(3)(a) If the construction professional disputes the claim or does not respond to the claimant's notice of claim within the time stated in subsection (2) of this section, the claimant may bring an action against the construction professional for the claim described in the notice of claim without further notice.

(b) If the claimant rejects the ~~((inspection proposal or the))~~ settlement offer made by the construction professional pursuant to subsection (2) of this section, the claimant shall serve written notice of the claimant's rejection on the construction professional. After service of the rejection, the claimant may bring an action against the construction professional for the construction defect claim described in the notice of claim. If the construction professional has not received from the claimant, within thirty days after the claimant's receipt of the construction professional's response, either an acceptance or rejection of the ~~((inspection proposal or))~~ settlement offer, then at anytime thereafter the construction professional may terminate the ~~((proposal or))~~ offer by serving written notice to the claimant, and the claimant may thereafter bring an action against the construction professional for the construction defect claim described in the notice of claim.

(4)(a) If the ~~((claimant elects to allow the))~~ construction professional proposes to inspect ~~((in accordance with the construction professional's proposal))~~ pursuant to subsection (2)(a) of this section, the claimant shall provide the construction professional and its contractors or other agents reasonable access to the claimant's residence during normal working hours to inspect the premises and the claimed defect.

(b) Whether conducted by a third party inspector or the construction professional, the person conducting the inspection shall produce a written report which shall describe the scope of the inspection, the findings and results of the inspection, a description of the additional construction necessary to remedy the defect described in the claim, a timetable for the completion of such construction, and an estimate of the costs of repair.

(c) Within fourteen days following completion of the inspection and delivery of the inspection report, the construction professional shall serve on the claimant:

(i) A written offer to remedy the construction defect at no cost to the claimant ~~((, including a report of the scope of the inspection, the findings and results of the inspection, a description of the additional construction necessary to remedy the defect described in the claim, and a timetable for the completion of such construction));~~

(ii) A written offer to compromise and settle the claim by monetary payment pursuant to subsection (2)(b) of this section; or

(iii) A written statement that the construction professional will not proceed further to remedy the defect.

~~((e))~~ (d) If the construction professional does not proceed further to remedy the construction defect within the agreed timetable, or if the construction professional fails to comply with the provisions of ~~((b))~~ (c) of this subsection, the claimant may bring an action against the construction professional for the claim described in the notice of claim without further notice.

~~((f))~~ (e) If the claimant rejects the offer made by the construction professional pursuant to ~~((b))~~ (c)(i) or (ii) of this subsection to either remedy the construction defect or to

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compromise and settle the claim by monetary payment, the claimant shall serve written notice of the claimant's rejection on the construction professional.

(f) For claims that are not residential construction board claims, after service of the rejection notice pursuant to subsection (e) of this subsection (4), the claimant may bring an action against the construction professional for the construction defect claim described in the notice of claim. For claims that are not residential construction board claims, if the construction professional has not received from the claimant, within thirty days after the claimant's receipt of the construction professional's response, either an acceptance or rejection of the offer made pursuant to ((b)) (c)(i) or (ii) of this subsection, then at anytime thereafter the construction professional may terminate the offer by serving written notice to the claimant.

(5)(a) Any claimant accepting the offer of a construction professional to remedy the construction defect pursuant to subsection (4)((b)) (c)(i) of this section shall do so by serving the construction professional with a written notice of acceptance within a reasonable time period after receipt of the offer, and no later than thirty days after receipt of the offer. The claimant shall provide the construction professional and its contractors or other agents reasonable access to the claimant's residence during normal working hours to perform and complete the construction by the timetable stated in the offer.

(b) The claimant and construction professional may, by written mutual agreement, alter the extent of construction or the timetable for completion of construction stated in the offer, including, but not limited to, repair of additional defects.

(6) Any action commenced by a claimant prior to compliance with the requirements of this section shall be subject to dismissal without prejudice, and may not be recommenced until the claimant has complied with the requirements of this section.

(7) Nothing in this section may be construed to prevent a claimant from commencing an action on the construction defect claim described in the notice of claim if the construction professional fails to perform the construction agreed upon, fails to remedy the defect, or fails to perform by the timetable agreed upon pursuant to subsection (2)(a) or (5) of this section.

(8) Prior to commencing any action with a court or the residential construction board alleging a construction defect, or after the dismissal of any action without prejudice pursuant to subsection (6) of this section, the claimant may amend the notice of claim to include construction defects discovered after the service of the original notice of claim, and must otherwise comply with the requirements of this section for the additional claims. The service of an amended notice of claim shall relate back to the original notice of claim for purposes of tolling statutes of limitations and repose. Claims for defects discovered after the commencement or recommencement of an action may be added to such action only after providing notice to the construction professional of the defect and allowing for response under subsection (2) of this section.

PART II. RESIDENTIAL CONSTRUCTION BOARD & CONSUMER EDUCATION OFFICE

NEW SECTION. Sec. 3. For the purposes of sections 4 through 14 of this act, the following definitions apply unless the context clearly requires otherwise:

(1) "Board" means the residential construction board created under section 4 of this act.

(2) "Contractor" means a person registered under chapter 18.27 RCW who performed services for the construction, alteration or repair of a residence.

(3) "Defect" means a deficiency, an inadequacy or an insufficiency arising out of or relating to the construction, alteration or repair of a residence. "Defect" includes a

deficiency, an inadequacy or an insufficiency in a system, component or material incorporated into a residence.

(4) "Mediator" means a person selected by the residential construction board to investigate defect complaints under this act.

(5) "Owner" means a person that possesses an interest in a residence or in land that is a residential site or has entered into a contract for the purchase of an interest in the residence or land. Owner includes, but is not limited to, a subsequent purchaser of a residence from any owner.

(6) "Residence" means a single-family house, duplex, triplex, or quadraplex.

NEW SECTION. Sec. 4. A residential construction board is created in the office of the attorney general. The board shall consist of seven members, appointed by the governor. The governor shall appoint initial members of the board to staggered terms of from two to four years. Thereafter, all members shall be appointed to full four-year terms. Members of the board hold their office until successors are appointed. A vacancy shall be filled by appointment by the governor for the unexpired portion of the term in which the vacancy occurs. Existing members of the board may be re-appointed for additional terms. The board shall select from its members a chair person, vice chair person, and any other officer the board determines is necessary to perform its duties. The board shall consist of:

(a) Three members possessing a minimum of ten years of experience in the construction of residences and directly, or as employees or officers of a firm, registered under chapter 18.27 RCW;

(b) One member possessing a minimum of ten years of experience in the remodeling of residences and directly, or as employees or officers of a firm, registered under chapter 18.27 RCW;

(c) One architect licensed under chapter 18.08 RCW or professional engineer registered under chapter 18.43 RCW;

(d) One building inspector employed by a city or county; and

(e) One member of the general public.

NEW SECTION. Sec. 5. (1) The board shall form and manage a consumer education office whose duties shall include:

(a) Educating consumers about contracting for residential construction services, including the requirements of chapter 18.27 RCW and methods available to protect themselves against loss;

(b) Producing written and electronic consumer education materials about contracting for residential construction services and legal resources available to consumers;

(c) Creating a pamphlet explaining a homeowner's legal rights and remedies and provide contractors and other construction professionals with a downloadable version of the brochure to attach to contracts for purchase and sale of new residential real property or the substantial remodel of existing residential real property. The office shall periodically update this pamphlet;

(d) Identifying and working collaboratively with agencies and organizations who are already engaged in consumer education efforts in the area of residential construction, such as the department of labor and industries, the department of licensing, local governments, the construction industry, financial institutions, and other interested organizations and individuals, to increase outreach to consumers;

(e) Sharing consumer education materials with and serve as a resource for agencies and organizations who are already engaged in consumer education;

(f) Developing a uniform manner of receiving, cataloging, analyzing, and responding to consumer complaints about residential construction;

(g) Identifying which agencies and organizations are already receiving complaints and coordinate with them to ensure that all

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agencies and organizations are requesting the same information from complaining consumers and that all consumers are referred to the office;

(h) Entering into data-sharing agreements with the department of labor and industries, local governments, and other agencies with enforcement duties in residential construction to increase assistance to consumers and enforcement of construction-related laws; and

(i) Reporting to the legislature on an annual basis the total number of complaints, the nature of the complaints, the monetary value of the complaints, whether complaints have been resolved, and any other information that the office deems relevant. The first report is due on January 1, 2010, and subsequent reports are due on November 1st of each year thereafter.

(2) The board shall:

(a) Manage a residential construction defect complaint resolution process consistent with the requirements of this act; and

(b) Report to the legislature on an annual basis any recommendations for changes in law or rule to improve the quality of residential home construction.

NEW SECTION. Sec. 6. (1) The board shall solicit and review qualifications for mediators based on the following standards:

(a) Minimum of ten years of experience in residential construction;

(b) Current contractors registration in the state or former contractors registration in the state, provided registration was not terminated by an action of the department of labor and industries; and;

(c) Other qualifications the board may deem appropriate.

(2)(a) The board shall select mediators the board deems, by a majority vote, meet the qualifications for the board. There shall be no right of appeal of a selection decision made by the board. All qualified mediator names shall be compiled into a single ranked list. Names of newly selected mediators shall be added to the bottom of the list.

(b) Mediators shall not be employees of the board or the state.

Mediators shall be paid on a per case basis at a rate set by the board.

(c) Mediators may be removed from the list for any reason by a vote of the majority of members of the board. There shall be no right of appeal of a removal decision made by the board.

NEW SECTION. Sec. 7. (1) The board shall assign a mediator to each complaint filed with the board. The board shall assign the mediator from the top of the list of mediators approved by the board by providing written notice to the arbitrator, owner, and contractor of the assignment.

(2) A mediator may reject an assignment for any reason by providing written notice to the board within five business days of receiving the assignment notice from the board. A mediator shall reject an assignment if the mediator is aware of any common financial interest between the mediator and the owner or contractor. (3) The mediator shall disclose in writing within three business days of receiving the assignment notice to the board, the owner, and the contractor any pre-existing personal or professional relationships between the mediator and the owner or the contractor. Presence of a pre-existing relationship shall not be a basis for requiring a mediator to reject an assignment.

(4) The owner may reject up to one mediator for any reason, by providing written notice to the board of the rejection within five business days of receiving the assignment notice from the board.

(5) The contractor may reject up to one mediator for any reason, by providing written notice to the board of the rejection within five business days of receiving the assignment notice

from the board.

(6) If a mediator assignment is rejected for any reason, the board shall assign the next mediator in the manner provided for under this section.

(7) After the mediator is assigned to a complaint, regardless of whether the mediator rejects or is rejected from further investigation of the complaint, the mediator's name shall be added at the bottom of the list of approved mediators and shall be available for assignment to future cases as the mediator's name advances on the list.

NEW SECTION. Sec. 8. If an owner files a complaint with the board against any contractor to assert a claim arising out of or related to the construction, alteration or repair of a residence located in this state and the owner has not followed the procedure set forth in chapter 64.50 RCW, the board shall dismiss the complaint without prejudice.

NEW SECTION. Sec. 9. The board shall have the jurisdiction to receive all owner complaints regarding residential construction defects.

NEW SECTION. Sec. 10. A complaint under section 12 of this act must arise from the performance, or a contract for the performance, of work that requires a contractor registered under chapter 18.27 RCW.

NEW SECTION. Sec. 11. The board must receive the complaint no later than six years after the completion of construction as defined by RCW 4.16.310. If a claim is filed with the board within the applicable statute of limitations, the filing of the claim tolls the statute of limitations for the period of time until the board issues a decision under section 12 of this act.

NEW SECTION. Sec. 12. (1) Prior to commencing any construction defect action with a court or filing a claim under a written express warranty complying with section 16 of this act, an owner must submit a complaint to the board.

(2) The owner must file the complaint with the board in a form prescribed by the board.

(3) The board shall suspend processing of the complaint if:

(a) The amount of the complaint exceeds \$50,000; or

(b) The board determines that the nature or complexity of the dispute described in the complaint is such that a court is the appropriate forum for the adjudication of the dispute; or

(c) The board determines the contractor is not registered under chapter 18.27 RCW.

(4) The board may dismiss or close the complaint if any of the following conditions apply:

(a) The owner does not respond to a mediator request and the request is necessary to the mediator's investigation of the complaint;

(b) The owner does not allow the mediator to conduct one or more on-site meetings to mediate or investigate the complaint; or

(c) The owner does not permit the contractor against whom the complaint is filed to be present at an on-site investigation made by the mediator; or

(d) The mediator determines that the contractor against whom the complaint is filed is capable of complying with recommendations made by the mediator relative to the complaint, but the owner does not permit the contractor to comply with the recommendations.

(5) Upon acceptance of the complaint, the board shall assign a mediator to the complaint in the form and manner prescribed by this act.

(6) The mediator shall initiate proceedings to determine the validity of the complaint.

(7) At a minimum, the mediator shall conduct one or more on-site meetings to mediate or investigate the complaint.

(8) If the mediator is unable to resolve the complaint under this section, the mediator shall issue a written decision, including an indication of an amount of damages. In

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determining whether a complaint should result in an award of damages, the mediator shall consider:

(a) The fitness of the materials selected and used by the contractor;

(b) Whether the work was performed in accordance with accepted trade practices;

(c) Whether the work was performed in compliance with code regulations in effect at the time it was constructed;

(d) Whether the resulting building or improvement was suitable for its intended purpose; and

(e) Failure of the current or former owner to conduct normal and routine maintenance of the residence.

(9) The mediator shall deliver the decision to the board. The board shall forward the decision to the owner and contractor.

(10) The basis for a mediator's decision identified in subsection (8) of this section does not constitute a legal cause of action.

NEW SECTION. Sec. 13. Notwithstanding the provisions of chapter 7.06 RCW, any other provision of law or any contractual provision, failure of a contractor to initiate mediation proceedings within thirty days after notification by the board of a complaint under section 12 of this act is a waiver by the contractor of any contractual right to mediation or arbitration.

NEW SECTION. Sec. 14. (1) Within twenty days after the filing of the mediator's decision with the board, the owner or the contractor may reject the decision of the mediator by delivering written notice of the rejection to the board. The board shall forward written notice of the rejection to the owner and the contractor within five days of receiving the rejection of the decision.

(2) Upon receipt of written notice of rejection of the mediator's decision, an owner pursuing a claim under an implied warranty of habitability may file with the clerk of a superior court with jurisdiction a written notice of request for a trial de novo on all issues of law and fact. Such trial de novo shall thereupon be held, including a right to jury, if demanded. Any owner pursuing a claim under an express written warranty may file the claim in the form and manner prescribed by the warranty contract.

Sec. 15. RCW 18.27.075 and 2001 c 159 s 14 are each amended to read as follows:

(1) The department shall charge a fee of one hundred dollars for issuing or renewing a certificate of registration during the 2001-2003 biennium. The department shall revise this amount at least once every two years for the purpose of recognizing economic changes as reflected by the fiscal growth factor under chapter 43.135 RCW.

(2) The department shall also charge a fee of one hundred dollars per year for issuing or renewing a certificate of registration. The department shall remit this fee, without overhead or administrative expense, to the office of the attorney general for the exclusive purpose of funding the activities of the residential construction board and office of consumer education created by this act.

PART III. WARRANTIES

NEW SECTION. Sec. 16. (1) Except as provided in subsections (2) or (3) of this section, the implied warranty of habitability may not be contractually disclaimed, waived, modified, or limited. The implied warranty of habitability transfers from the homeowner to subsequent purchasers. Subsequent purchasers of a residence may bring an action for breach of implied warranty of habitability.

(2) The implied warranty of habitability may be disclaimed or waived if the contractor or seller provides to the homeowner a transferable written express warranty at the time of closing that meets or exceeds the standards approved by the United States

department of housing and urban development.

(3) The implied warranty of habitability may be modified or limited, provided the contractor performing work disclaims specifically listed components or features of the construction selected or specified by the owner.

(4) A disclaimer, waiver, modification, or limitation of an implied warranty of habitability under subsection (2) or (3) of this section must be:

(a) Written;

(b) Conspicuous;

(c) Typed or printed in ten-point bold face type; and

(d) Signed by the homeowner;

(5) Damages awarded for a breach of the implied warranty of habitability are the cost of repairs. However, if it is established that the cost of repairs is clearly disproportionate to the loss in market value caused by the breach, damages are limited to the loss in market value.

(6) This section shall not apply to condominium units created pursuant to chapters 64.32 or 64.34 RCW.

NEW SECTION. Sec. 17. Sections 3 through 14 and section 16 of this act are each added to chapter 64.50 RCW

On page 1, line 1 of the title, after "Relating to", strike the remainder of the title and insert "establishing a residential construction board; amending RCW 18.27.075, 54.50.010, and 64.50.020; and adding new sections to chapter 64.50 RCW."

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

Senators Tom and Hargrove spoke against adoption of the striking 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 striking amendment by Senators Holmquist and King to Second Substitute Senate Bill No. 5895.

ROLL CALL

The Secretary called the roll on the adoption of the striking amendment by Senators Holmquist and King and the amendment was not adopted by the following vote: Yeas, 21; Nays, 28; Absent, 0; Excused, 0.

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

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

MOTION

Senator Hargrove moved that the following striking amendment by Senators Hargrove and Tom be adopted:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1 A new section is added to chapter 43.10 RCW to read as follows:

(1) The office of consumer education for home construction is created in the office of the attorney general.

(2) The office of consumer education for home construction shall examine issues involved in establishing a recovery fund to provide compensation to residential real property homeowners through a claim filing process. The office of consumer education for home construction shall consult with appropriate agencies and representatives from organizations involved in the area of residential construction. The office of consumer

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education for home construction shall make recommendations to the legislature on the creation of a recovery fund by December 1, 2010.

Sec. 2 RCW 18.27.075 and 2001 c 159 s 14 are each amended to read as follows:

(1) The department shall charge a fee of one hundred dollars for issuing or renewing a certificate of registration during the 2001-2003 biennium. The department shall revise this amount at least once every two years for the purpose of recognizing economic changes as reflected by the fiscal growth factor under chapter 43.135 RCW.

(2) The department shall also charge a consumer education fee of one hundred dollars per year for issuing or renewing a certificate of registration. The department shall deposit the fee in the consumer education for home construction account created in section 3 of this act.

NEW SECTION. Sec. 3 A new section is added to chapter 43.10 RCW to read as follows:

The consumer education for home construction account is created in the custody of the state treasury for the purpose of funding the office of consumer education for home construction. All fees charged under subsection (2) of section 2 of this act and filing fees charged under section 9 of this act must be deposited into the account. Expenditures from the account may be used only to fund the office of consumer education for home construction. Only the home construction board created under section 6 of this act or the board's designee may authorize expenditure from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

Sec. 4 RCW 43.79A.040 and 2008 c 208 s 9, 2008 c 128 s 20, and 2008 c 122 s 24 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the students with dependents grant account, the basic health plan self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the Washington international exchange scholarship endowment fund, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future

teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and fire fighters' plan 2 expense fund, the local tourism promotion account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), the life sciences discovery fund, the Washington state heritage center account, the consumer education for home construction account, and the reading achievement account. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right of way revolving fund, the advanced environmental mitigation revolving account, the city and county advance right-of-way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 5 RCW 43.79A.040 and 2008 c 239 s 9, 2008 c 208 s 9, 2008 c 128 s 20, and 2008 c 122 s 24 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the students with dependents grant account, the basic health plan self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the

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commemorative works account, the Washington international exchange scholarship endowment fund, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and fire fighters' plan 2 expense fund, the local tourism promotion account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), the life sciences discovery fund, the Washington state heritage center account, the consumer education for home construction account, and the reading achievement account. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right of way revolving fund, the advanced environmental mitigation revolving account, the city and county advance right-of-way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. Sec. 6. A new section is added to chapter 43.10 RCW to read as follows:

For the purposes of sections 7 through 11 of this act, the following definitions apply:

(1) "Board" means the home construction board created in section 7 of this act.

(2) "Claim" means a claim filed with the board against a construction professional under section 9 of this act and does not mean a complaint as that term is used in section 1 of this act.

(3) "Construction professional" has the same meaning as in section 15 of this act.

(4) "Contractor" means a contractor, as defined in RCW 18.27.010, that is registered with the department of labor and industries under chapter 18.27 RCW.

(5) "Defect" means a deficiency, an inadequacy or an insufficiency arising out of or relating to the construction, alteration, or repair of residential real property. "Defect" also includes a deficiency, an inadequacy or an insufficiency in a system, component, or material incorporated into residential real property.

(6) "Damages" means the cost of repairs, or if the cost of repairs is clearly disproportionate to the loss in market value, damages is the loss in market value.

(7) "Homeowner" means a person or persons owning residential real property. "Homeowner" does not include government agencies, political subdivisions, financial institutions, and any other entity that purchases, guarantees, or

insures a loan secured by real property. "Homeowner" also does not include the spouse, domestic partner, or personal representative of the contractor named in the claim filed under section 10 of this act.

(8) "Residential real property" has the same meaning as in section 15 of this act.

NEW SECTION. Sec. 7. A new section is added to chapter 43.10 RCW to read as follows:

(1) The home construction board is established within the office of consumer education for home construction to administer a residential real property homeowner and construction professional early resolution mediation program.

(2) The purpose of the board is to provide homeowners and construction professionals with a cost-effective and time-efficient process to resolve disputes arising from alleged construction.

(3) The board consists of the following seven members:

(a) Three members possessing a minimum of ten years of experience in the construction of residences and directly, or as employees or officers of a firm, registered under chapter 18.27 RCW;

(b) One member possessing a minimum of ten years of experience in the remodeling of residences and directly, or as employees or officers of a firm, registered under chapter 18.27 RCW;

(c) One architect licensed under chapter 18.08 RCW or professional engineer registered under chapter 18.43 RCW;

(d) One building inspector employed by a city or county; and

(e) One member of the general public.

(3) Members of the board shall be appointed by the governor with consent of the Senate. The governor shall appoint initial members of the board to staggered terms of from two to four years. Thereafter, all members shall be appointed to full four-year terms. Members of the board hold office until their successors are appointed. A vacancy shall be filled by appointment by the governor for the unexpired portion of the term in which the vacancy occurs.

(4) The board shall select from its members a chair person, vice chair person, and any other officer the board determines is necessary to perform its duties.

(5) The board shall meet a minimum of four times per year to carry out its functions.

(6) The board may adopt rules to implement the board's duties.

NEW SECTION. Sec. 8 A new section is added to chapter 43.10 RCW to read as follows:

(1) The board shall investigate and mediate claims filed by a homeowner against a construction professional for alleged construction defects to residential real property.

(2) The board may use the services of neutral third party experts to assist the board in investigating, assessing, and mediating claims. The board may rely on the national building standards and other recognized standards or codes that the board finds appropriate.

NEW SECTION. Sec. 9 A new section is added to chapter 43.10 RCW to read as follows:

(1) A homeowner of residential real property alleging that a construction professional has performed defective work must, prior to commencing an action against the construction professional, file a claim against the construction professional with the board.

(2) The claim shall be in the form required by the board, and shall include, at a minimum:

(a) The name and mailing address of the homeowner or the homeowner's legal representative, if any;

(b) The address and location of the residential real property;

(c) The names and addresses of the construction

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professionals, to the extent known to the homeowner, who performed the work;

(d) Whether the work performed involved construction of new residential real property or a substantial remodel of residential real property and the date that the homeowner took possession of the new residential real property or, for a substantial remodel, the date the work was substantially completed or the project was terminated;

(e) A description of the defective work performed and the actual or estimated costs of repair;

(f) Any report, estimates, and other documents evidencing the defect and the costs of repair;

(g) Whether there is a written contract between the construction professional and the homeowner and whether the contract contains warranties related to the work performed or the materials used.

(3) The board may not process a claim against a construction professional unless the claim is filed with the board within the applicable statute of limitations.

(4) When a claim is filed with the board within the applicable statute of limitations, the filing of the claim tolls any applicable statute of limitations and any applicable statute of repose for construction-related claims for the period of time until fifteen days after the board provides written notice of completion of mediation.

(5) Any action commenced in court by a homeowner prior to compliance with the requirements of this section shall be subject to dismissal without prejudice, and may not be recommenced until the homeowner has complied with the requirements of this section.

(6) The board by rule may impose a processing fee for claims filed under this section not to exceed one hundred dollars. The fee shall be deposited into the consumer education for home construction account created under section 3 of this act.

NEW SECTION. Sec.10 A new section is added to chapter 43.10 RCW to read as follows:

(1) Upon receipt of a claim, the board shall give written notice to the construction professional against whom the claim is made. The notice of the claim shall describe the claim in reasonable detail sufficient to determine the nature of the defect.

(2) Within twenty-one days after service of the notice of claim, the construction professional shall serve a written response on the homeowner by registered mail or personal service. The written response shall:

(a) Propose to inspect the residence that is the subject of the claim and to complete the inspection within a specified time frame. The proposal shall include the statement that the construction professional shall, based on the inspection, offer to remedy the defect, compromise by payment, or dispute the claim;

(b) Offer to compromise and settle the claim by monetary payment without inspection. A construction professional's offer under this subsection (2)(b) to compromise and settle a homeowner's claim may include, but is not limited to, an express offer to purchase the homeowner's residence that is the subject of the claim, and to pay the homeowner's reasonable relocation costs; or

(c) State that the construction professional disputes the claim and will neither remedy the defect nor compromise and settle the claim.

(3)(a) If the construction professional disputes the claim or does not respond to the notice of claim within the time stated in subsection (2) of this section, the board shall commence an investigation and mediation of the claim.

(b) If the homeowner rejects the inspection proposal or the settlement offer made by the construction professional pursuant to subsection (2) of this section, the homeowner shall serve written notice of the rejection on the construction professional

and the board. After service of the rejection, the board shall commence an investigation and mediation of the claim.

(c) If the construction professional has not received from the homeowner, within thirty days after the homeowner's receipt of the construction professional's response, either an acceptance or rejection of the inspection proposal or settlement offer, then at anytime thereafter the construction professional may terminate the proposal or offer by serving written notice to the homeowner, and the board shall commence an investigation and mediation of the claim.

(4)(a) If the homeowner elects to allow the construction professional to inspect in accordance with the construction professional's proposal pursuant to this section, the homeowner shall provide the construction professional and its contractors or other agents reasonable access to the homeowner's residence during normal working hours to inspect the premises and the claimed defect.

(b) Within fourteen days following completion of the inspection, the construction professional shall serve on the homeowner:

(i) A written offer to remedy the defect at no cost to the homeowner, including a report of the scope of the inspection, the findings and results of the inspection, a description of the additional construction necessary to remedy the defect, and a timetable for the completion of such construction;

(ii) A written offer to compromise and settle the claim by monetary payment pursuant to subsection (2)(b) of this section; or

(iii) A written statement that the construction professional will not proceed further to remedy the defect.

(c) If the construction professional does not proceed further to remedy the defect within the agreed timetable, or if the construction professional fails to comply with the provisions of (b) of this subsection, the homeowner shall provide written notification to the board. The board shall commence an investigation and mediation of the claim.

(d) If the homeowner rejects the offer made by the construction professional pursuant to (b)(i) or (ii) of this subsection (4) to either remedy the defect or to compromise and settle the claim by monetary payment, the homeowner shall serve written notice of the rejection on the construction professional and the board. After service of the rejection notice, the board shall commence an investigation and mediation of the claim.

(e) If the construction professional has not received from the homeowner, within thirty days after the homeowner's receipt of the construction professional's response, either an acceptance or rejection of the offer made pursuant to (b)(i) or (ii) of this subsection (4), then at anytime thereafter the construction professional may terminate the offer by serving written notice to the homeowner.

(5)(a) Any homeowner accepting the offer of a construction professional to remedy the defect pursuant to subsection (4)(b)(i) of this section shall do so by serving the construction professional with a written notice of acceptance within a reasonable time period after receipt of the offer, and no later than thirty days after receipt of the offer. The homeowner shall also send a copy of the written notice of acceptance to the board. The homeowner shall provide the construction professional and its contractors or other agents reasonable access to the homeowner's residence during normal working hours to perform and complete the construction by the timetable stated in the offer.

(b) The homeowner and construction professional may, by written mutual agreement, alter the extent of construction or the timetable for completion of construction stated in the offer, including, but not limited to, repair of additional defects.

(6) Compliance with this section satisfies the requirements of RCW 64.50.020.

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NEW SECTION. Sec. 11. A new section is added to chapter 43.10 RCW to read as follows:

(1) If, after compliance with the procedures established in section 10 of this act, a resolution has not been reached between the homeowner and construction professional, the board shall investigate the claim.

(2) The board may use the services of neutral third party experts to conduct on-site investigations, make recommendations to the board, and assist the board in investigating and mediating claims.

(3) After the investigation is complete, the board shall provide the parties with notification of the findings of the investigation. If the parties do not provide the board with written notification within 14 days after receipt of the findings that the parties have resolved the claim, the board shall mediate the claim.

(4) The mediation shall be conducted by a panel of three members of the board in accordance with rules adopted by the board.

(5) All proceedings of the mediation conference, including any statement made by any party, attorney or other participant, shall be privileged and not reported, recorded, placed in evidence, used for impeachment, made known to a court or jury, or construed for any purpose as an admission. No party shall be bound by anything done or said at the mediation conference unless a settlement is reached, in which event the agreement upon a settlement shall be reduced to writing and shall be binding upon all parties to that agreement.

(6) At the conclusion of the mediation the board shall provide a written notice of the completion of mediation to the parties. The notice shall include a statement of the results of the mediation and a copy of any written settlement agreement between the parties. If the parties did not reach an agreement, the notice shall include a statement that the parties may pursue any other right or remedy provided by statutory or common law.

NEW SECTION. Sec.12. A new section is added to chapter 43.10 RCW to read as follows:

The board shall maintain and make available to the office of consumer education for home construction a record of all claims filed with the board against construction professionals under this chapter and the outcomes of those claims.

NEW SECTION. Sec. 13 A new section is added to chapter 64.50 RCW to read as follows:

The provisions of RCW 64.50.020 do not apply to a claim filed with the home construction board under sections 9 through 11 of this act.

PART II. RESIDENTIAL REAL PROPERTY WARRANTIES, LEGAL REMEDIES, AND THIRD-PARTY INSPECTIONS

NEW SECTION. Sec. 14 A new section is added to chapter 64.50 RCW to read as follows:

(1) The legislature intends by this section to modify the common law implied warranty of habitability to provide that this warranty may not be contractually disclaimed, waived, modified, or limited. The legislature does not intend to modify any other aspect of the common law implied warranty of habitability as developed through case law.

(2) The common law implied warranty of habitability may not be disclaimed, waived, modified, or limited by contractual agreement. A provision of any contract for the purchase or sale of newly constructed residential property that purports to disclaim, waive, modify, or limit the implied warranty of habitability is void and unenforceable.

NEW SECTION. Sec. 15. A new section is added to chapter 64.50 RCW to read as follows:

(1) A construction professional involved in the construction

of new residential real property, or the substantial remodel of existing residential real property, warrants that the work, and any part thereof, will be suitable for the ordinary uses of real property of its type and that the work will be:

(a) Free from defective materials;

(b) Constructed in accordance with sound engineering and construction standards;

(c) Constructed in a work-like manner; and

(d) Constructed in compliance with all laws then applicable to the improvements.

(2) If a construction professional breaches a warranty arising under this section and the breach results in damage to any portion of the residential real property, the current owner of the residential real property may bring a cause of action for damages against the construction professional. Absence of privity of contract between the owner and the construction professional is not a defense to the enforcement of a warranty arising under this section.

(3) In a judicial proceeding for breach of a warranty arising under this section, the plaintiff must show that the alleged breach has adversely affected or will adversely affect the performance of that portion of the property alleged to be in breach. To establish an adverse effect, the person alleging the breach is not required to prove that the breach renders the property unfit for occupancy. As used in this subsection, "adverse effect" must be more than technical and must be significant to a reasonable person.

(4) Proof of breach of a warranty arising under this section is not proof of damages. Damages awarded for a breach of a warranty arising under this section are the cost of repairs. However, if it is established that the cost of repairs is clearly disproportionate to the loss in market value caused by the breach, damages are limited to the loss in market value.

(5)(a) A judicial proceeding for breach of a warranty arising under this section must be commenced within four years after the cause of action accrues. This period may not be reduced by either oral or written agreement, or through the use of contractual claims or notice procedures that require the filing or service of any claim or notice prior to the expiration of the period specified in this section.

(b) Except as provided under (c) of this subsection, a judicial proceeding for breach of a warranty arising under this section accrues, regardless of the owner's lack of knowledge of the breach:

(i) In the case of the purchase of newly constructed residential real property, on the date the initial owner enters into possession of the property; or

(ii) In the case of the substantial remodel of existing residential real property, on the date of substantial completion of construction or termination of the construction project, whichever is later.

(c) A cause of action for breach of a warranty arising under this section that is based on a latent structural defect or a latent water penetration defect accrues when the claimant discovers or reasonably should have discovered the latent structural defect or latent water penetration defect.

(d) An action for breach of warranty under this section is subject to the time limitations provided in RCW 4.16.310.

(6) If a written notice of claim is served under RCW 64.50.020 within the time prescribed for the filing of an action under this section, the statute of limitations in this section and any applicable statute of repose for construction-related claims are tolled until sixty days after the period of time during which the filing of an action is barred under RCW 64.50.020.

(7) The warranties provided under this section are in addition to any other rights or remedies available under statutory law or common law or provided for under contract. The warranties provided under this section may not be waived, disclaimed, modified, or limited.

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(8) In a judicial proceeding under this section, the court may award reasonable attorneys' fees and costs to the prevailing party.

(9) This section is not intended to create an independent right to maintain a class action against any construction professional.

(10) This section does not apply to condominiums subject to chapter 64.34 RCW.

(11) This section does not affect the application of the notice and opportunity to cure requirements and procedures imposed under RCW 64.50.010 through 64.50.050.

(12) An action for breach of a warranty created under this section is subject to any requirements for mandatory arbitration imposed under chapter 7.06 RCW or state or local court rules.

(13) For the purposes of this section:

(a) "Construction professional" means an architect, builder, builder vendor, contractor, subcontractor, engineer, or inspector, performing or furnishing the design, supervision, inspection, construction, or observation of the construction, of any improvement to residential real property, whether operating as a sole proprietor, partnership, corporation, or other business entity.

(b) "Residential real property" means a single-family home, a duplex, a triplex, or a quadraplex.

(c) "Substantial completion of construction" means the state of completion reached when an improvement upon real property may be used or occupied for its intended use.

Sec. 16. RCW 4.16.310 and 2002 c 323 s 9 are each amended to read as follows:

(1) All claims or causes of action as set forth in RCW 4.16.300 shall accrue, and the applicable statute of limitation shall begin to run only during the period within six years after substantial completion of construction, or during the period within six years after the termination of the services enumerated in RCW 4.16.300, whichever is later. The phrase "substantial completion of construction" shall mean the state of completion reached when an improvement upon real property may be used or occupied for its intended use. Any cause of action which has not accrued within six years after such substantial completion of construction, or within six years after such termination of services, whichever is later, shall be barred: PROVIDED, That this limitation shall not be asserted as a defense by any owner, tenant or other person in possession and control of the improvement at the time such cause of action accrues. The limitations prescribed in this section apply to all claims or causes of action as set forth in RCW 4.16.300 brought in the name or for the benefit of the state which are made or commenced after June 11, 1986.

If a written notice is filed under RCW 64.50.020 within the time prescribed for the filing of an action under this chapter, the period of time during which the filing of an action is barred under RCW 64.50.020 plus sixty days shall not be a part of the period limited for the commencement of an action, nor for the application of this section.

(2) Actions and claims for fraud arising from including, but not limited to, construction, alteration, repair, design, planning, survey, and the engineering of improvements upon real property are not subject to the time limitations under subsection (1) of this section. Such actions and claims are governed under RCW 4.16.080.

Sec. 17. RCW 64.50.010 and 2002 c 323 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Action" means any civil lawsuit or action in contract or tort for damages or indemnity brought against a construction professional to assert a claim, whether by complaint, counterclaim, or cross-claim, for damage or the loss of use of real or personal property caused by a defect in the construction

of a residence or in the substantial remodel of a residence. "Action" does not include any civil action in tort alleging personal injury or wrongful death to a person or persons resulting from a construction defect.

(2) "Association" means an association, master association, or subassociation as defined and provided for in RCW 64.34.020(4), 64.34.276, 64.34.278, and 64.38.010(1).

(3) "Building enclosure" has the same meaning as in RCW 64.55.010.

(4) "Building enclosure design documents" has the same meaning as in RCW 64.55.010.

(5) "Claimant" means a homeowner or association who asserts a claim against a construction professional concerning a defect in the construction of a residence or in the substantial remodel of a residence.

~~((4))~~ (6) "Construction professional" means an architect, builder, builder vendor, contractor, subcontractor, engineer, or inspector, including, but not limited to, a dealer as defined in RCW 64.34.020~~((12))~~ (13) and a declarant as defined in RCW 64.34.020~~((13))~~ (14), performing or furnishing the design, supervision, inspection, construction, or observation of the construction of any improvement to real property, whether operating as a sole proprietor, partnership, corporation, or other business entity.

~~((5))~~ (7) "Homeowner" means: (a) Any person, company, firm, partnership, corporation, or association who contracts with a construction professional for the construction, sale, or construction and sale of a residence; and (b) an "association" as defined in this section. "Homeowner" includes, but is not limited to, a subsequent purchaser of a residence from any homeowner.

~~((6))~~ (8) "Qualified building inspector" has the same meaning as in RCW 64.55.010.

(9) "Residence" means a building, including a single-family house, duplex, triplex, quadraplex, or a unit in a multiunit residential structure in which title to each individual unit is transferred to the owner under a condominium or cooperative system, and shall include common elements as defined in RCW 64.34.020(6) and common areas as defined in RCW 64.38.010(4).

~~((7))~~ (10) "Serve" or "service" means personal service or delivery by certified mail to the last known address of the addressee.

~~((8))~~ (11) "Stamped" has the same meaning as in RCW 64.55.010.

(12) "Substantial remodel" means a remodel of a residence, for which the total cost exceeds one-half of the assessed value of the residence for property tax purposes at the time the contract for the remodel work was made.

NEW SECTION. Sec. 18. A new section is added to chapter 64.50 RCW to read as follows:

(1) Any person applying for a building permit for construction of a residential building or substantial remodel shall submit building enclosure design documents to the appropriate building department prior to the start of construction or substantial remodel. If construction work on a building is not a substantial remodel because the cost of thereof does not exceed one-half of the assessed value of the residence for property tax purposes at the time the contract for the remodel work was made, the person applying for a building permit shall submit to the building department a letter so certifying. Any changes to the building enclosure design documents that alter the manner in which the building or its components is waterproofed, weatherproofed, and otherwise protected from water or moisture intrusion must be stamped by the architect or engineer and must be provided to the building department and to the person conducting the course of construction inspection in a timely manner to permit such person to inspect for compliance therewith, and may be provided through individual updates,

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cumulative updates, or as-built updates.

(2) The building department shall not issue a building permit for construction of the building enclosure of a residential building or a substantial remodel unless the building enclosure design documents contain a stamped statement by the person stamping the building enclosure design documents in substantially the following form: "The undersigned has provided building enclosure documents that in my professional judgment are appropriate to satisfy the requirements of sections 18 through 24 of this act."

(3) The building department is not charged with determining whether the building enclosure design documents are adequate or appropriate to satisfy the requirements of this section and sections 19 through 24 of this act. This section and sections 19 through 24 of this act do not require a building department to review, approve, or disapprove enclosure design documents.

NEW SECTION. Sec. 19. A new section is added to chapter 64.50 RCW to read as follows:

All residential buildings must have the building enclosure inspected by a qualified inspector during the course of initial construction and during a substantial remodel.

NEW SECTION. Sec. 20. A new section is added to chapter 64.50 RCW to read as follows:

(1) A qualified building enclosure inspector:

(a) Must be a person with substantial and verifiable training and experience in building enclosure design and construction;

(b) Must be free from improper interference or influence relating to the inspections; and

(c) May not be an employee, officer, or director of, or have any pecuniary interest in, the declarant, developer, association, or any party providing services or materials for the project, or any of their respective affiliates, except that the qualified inspector may be the architect or engineer who approved the building enclosure design documents or the architect or engineer of record. The qualified inspector may, but is not required to, assist with the preparation of the design documents.

(2) This section does not alter the requirements for licensure of any architect, engineer, or other professional, and does not alter the jurisdiction, authority, or scope of practice of architects, engineers, other professionals, or general contractors.

NEW SECTION. Sec. 21. A new section is added to chapter 64.50 RCW to read as follows:

(1) An inspection required under this chapter must include, at a minimum, the following:

(a) Water penetration resistance testing of a representative sample of windows and window installations. These tests must be conducted according to industry standards. Where appropriate, tests must be conducted with an induced air pressure difference across the window and window installation. Additional testing is not required if the same assembly has previously been tested in situ within the previous two years in the project under construction by the builder, by another member of the construction team such as an architect or engineer, or by an independent testing laboratory; and

(b) An independent periodic review of the building enclosure during the course of construction or rehabilitative construction to ascertain whether the residential building has been constructed, or the substantial remodel has been performed, in substantial compliance with the building enclosure design documents.

(2) Subsection (1)(a) of this section does not apply to substantial remodels if the windows and adjacent cladding are not altered in the substantial remodel.

(3) For the purposes of this section, "project" means one or more parcels of land in a single ownership, which are under development pursuant to a single land use approval or building permit, where window installation is performed by the owner with its own forces, or by the same general contractor, or, if the

owner is contracting directly with trade contractors, is performed by the same trade contractor.

NEW SECTION. Sec. 22. A new section is added to chapter 64.50 RCW to read as follows:

Upon completion of an inspection required under this chapter, the qualified inspector shall prepare and submit to the appropriate building department a signed letter certifying that the building enclosure has been inspected during the course of construction or substantial remodel and that it has been constructed or reconstructed in substantial compliance with the building enclosure design documents, as updated under section 18 of this act. The building department shall not issue a final certificate of occupancy or other equivalent final acceptance until the letter required under this section has been submitted. The building department is not charged with and has no responsibility for determining whether the building enclosure inspection is adequate or appropriate to satisfy the requirements of this chapter.

NEW SECTION. Sec. 23. A new section is added to chapter 64.50 RCW to read as follows:

(1) This chapter is not intended to and does not:

(a) Create a private right of action against an inspector, architect, or engineer based upon compliance or noncompliance with this chapter; or

(b) Create an independent basis for liability against an inspector, architect, or engineer.

(2) The qualified inspector, architect, or engineer and the developer that retained the inspector, architect, or engineer may contractually agree to the amount of their liability to the developer.

NEW SECTION. Sec. 24. A new section is added to chapter 64.50 RCW to read as follows:

A qualified inspector's report or testimony regarding an inspection conducted under this chapter is not entitled to an evidentiary presumption in any arbitration or court proceeding. This chapter does not restrict the admissibility of the qualified inspector's report or testimony, and questions of the admissibility of the report or testimony are determined under the rules of evidence.

Sec. 25. A new section is added to chapter 19.27 RCW to read as follows:

(1) The state building code council must adopt rules requiring that natural or manufactured wood framing members used in residential construction be tested by a special inspector or the local building jurisdiction for maximum allowable moisture content prior to enclosing the framing. The rules adopted under this section must provide for the maximum percentage of moisture allowed, the various locations in a building that must be tested, the standards that need to be applied during testing, and procedures for retesting the structure if the moisture content exceeds the maximum allowable amount at the time of inspection. The rules may include a requirement that the special inspector be tested and certified by the Washington association of building officials certification and registration program and be approved by the local building official.

(2) After the inspection, the special inspector must provide a certificate of compliance to the local building official showing compliance with the requirements of this section and the rules adopted under this section.

PART III. CONTRACTOR REGISTRATION, WORKER CERTIFICATION, AND BONDING

NEW SECTION. Sec. 26. (1) The legislature finds that there is inadequate protection for consumers in the area of residential construction. The legislature further finds that a significant amount of the problems in the construction of new residential real property, or the substantial remodel of existing

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residential real property, pertain to water intrusion and unstable foundations and develop from poor installation of roofing, siding, framing, foundations, doors, and windows. The legislature recognizes that it is important to assure consumers that those doing construction work are properly trained. The legislature, therefore, intends to establish a worker certification requirement for those doing construction work in the areas of roofing, siding, framing, foundations, doors, and windows.

(2) The department of labor and industries shall contract for consultant services to develop recommendations to the legislature on the education, experience, and examination requirements of the program to certify workers engaged in the installation of roofing, siding, framing, foundations, doors, and windows. In developing the recommendations, the consultant and the department shall closely involve and consult with stakeholders. The recommendations must be submitted to the legislature by November 1, 2009.

(3) This section expires December 31, 2009.

Sec. 27. RCW 18.27.030 and 2008 c 120 s 1 are each amended to read as follows:

(1) An applicant for registration as a contractor shall submit an application under oath upon a form to be prescribed by the director and which shall include the following information pertaining to the applicant:

(a) Employer social security number.

(b) Unified business identifier number.

(c) Evidence of workers' compensation coverage for the applicant's employees working in Washington, as follows:

(i) The applicant's industrial insurance account number issued by the department;

(ii) The applicant's self-insurer number issued by the department; or

(iii) For applicants domiciled in a state or province of Canada subject to an agreement entered into under RCW 51.12.120(7), as permitted by the agreement, filing a certificate of coverage issued by the agency that administers the workers' compensation law in the applicant's state or province of domicile certifying that the applicant has secured the payment of compensation under the other state's or province's workers' compensation law.

(d) Employment security department number.

(e) Unified business identifier (UBI) account number may be substituted for the information required by (c) and (d) of this subsection if the applicant will not employ employees in Washington.

(f) Type of contracting activity, whether a general or a specialty contractor and if the latter, the type of specialty.

(g) Type of work performed, whether residential, commercial, or both.

(h) The name ((~~and~~)), address, social security number, date of birth, and driver's license number of each partner if the applicant is a firm or partnership, or the name ((~~and~~)), address, social security number, date of birth, and driver's license number of the owner if the applicant is an individual proprietorship, or the name ((~~and~~)), address, social security number, date of birth, and driver's license number of the corporate officers and statutory agent, if any, if the applicant is a corporation, or the name ((~~and~~)), address, social security number, date of birth, and driver's license number of all members of other business entities. The information contained in such application is a matter of public record and open to public inspection.

(i) The registration numbers and unified business identifier account numbers of previously or currently registered businesses involving the same owner, principal, or officer as the applicant.

(j) Disclosure of any bankruptcy proceedings filed by or against the applicant.

(k) Information about any construction licenses, certifications, or registrations that have been issued to the applicant by other states. The applicant shall also provide

details about any denials, suspensions, revocations, or any enforcement actions related to construction against the applicant by other states.

(2) The department may verify the workers' compensation coverage information provided by the applicant under subsection (1)(c) of this section, including but not limited to information regarding the coverage of an individual employee of the applicant. If coverage is provided under the laws of another state, the department may notify the other state that the applicant is employing employees in Washington.

(3)(a) The department shall deny an application for registration if: (i) The applicant has been previously performing work subject to this chapter as a sole proprietor, partnership, corporation, or other entity and the department has notice that the applicant has an unsatisfied final judgment against him or her in an action based on work performed subject to this chapter or the applicant owes the department money for penalties assessed or fees due under this chapter as a result of a final judgment; (ii) the applicant was an owner, principal, or officer of a partnership, corporation, or other entity that either has an unsatisfied final judgment against it in an action that was incurred for work performed subject to this chapter or owes the department money for penalties assessed or fees due under this chapter as a result of a final judgment; (iii) the applicant does not have a valid unified business identifier number; (iv) the department determines that the applicant has falsified information on the application, unless the error was inadvertent; ~~((or))~~ (v) the applicant does not have an active and valid certificate of registration with the department of revenue; or (vi) the department has determined that a different state has taken enforcement action against the applicant for activities that would be a violation of this chapter if they had occurred in Washington state.

(b) The department shall suspend an active registration if: (i) The department has determined that the registrant has an unsatisfied final judgment against it for work within the scope of this chapter; (ii) the department has determined that the registrant is a sole proprietor or an owner, principal, or officer of a registered contractor that has an unsatisfied final judgment against it for work within the scope of this chapter; (iii) the registrant does not maintain a valid unified business identifier number; (iv) the department has determined that the registrant falsified information on the application, unless the error was inadvertent; ~~((or))~~ (v) the registrant does not have an active and valid certificate of registration with the department of revenue; (vi) the department has determined that a different state has taken enforcement action against the registrant for activities that would be a violation of this chapter if they had occurred in Washington state; or (vii) the department has determined that the registrant failed to reasonably supervise employees, agents, or subcontractors or performed negligently or in breach of contract so as to cause injury or harm to the public.

(c) The department may suspend an active registration if the department has determined that an owner, principal, partner, or officer of the registrant was an owner, principal, or officer of a previous partnership, corporation, or other entity that has an unsatisfied final judgment against it.

(4) The department shall not deny an application or suspend a registration because of an unsatisfied final judgment if the applicant's or registrant's unsatisfied final judgment was determined by the director to be the result of the fraud or negligence of another party.

NEW SECTION. **Sec. 28.** A new section is added to chapter 18.27 RCW to read as follows:

A registered contractor, by or against whom a petition in bankruptcy has been filed, shall notify the department of the proceedings in bankruptcy, including the identity and location of the court in which the proceedings are pending, within ten days of the filing.

Sec. 29. RCW 18.27.040 and 2007 c 436 s 4 are each amended to read as follows:

(1) Each applicant shall file with the department a surety bond issued by a surety insurer who meets the requirements of chapter 48.28 RCW in the sum of ~~((twelve))~~ twenty-four thousand dollars if the applicant is a general contractor and ~~((six))~~ twelve thousand dollars if the applicant is a specialty contractor. If no valid bond is already on file with the department at the time the application is filed, a bond must accompany the registration application. The bond shall have the state of Washington named as obligee with good and sufficient surety in a form to be approved by the department. The bond shall be continuous and may be canceled by the surety upon the surety giving written notice to the director. A cancellation or revocation of the bond or withdrawal of the surety from the bond automatically suspends the registration issued to the contractor until a new bond or reinstatement notice has been filed and approved as provided in this section. The bond shall be conditioned that the applicant will pay all persons performing labor, including employee benefits, for the contractor, will pay all taxes and contributions due to the state of Washington, and will pay all persons furnishing material or renting or supplying equipment to the contractor and will pay all amounts that may be adjudged against the contractor by reason of breach of contract including improper work in the conduct of the contracting business. A change in the name of a business or a change in the type of business entity shall not impair a bond for the purposes of this section so long as one of the original applicants for such bond maintains partial ownership in the business covered by the bond.

(2) At the time of initial registration or renewal, the contractor shall provide a bond or other security deposit as required by this chapter and comply with all of the other provisions of this chapter before the department shall issue or renew the contractor's certificate of registration. Any contractor registered as of July 1, 2001, who maintains that registration in accordance with this chapter is in compliance with this chapter until the next renewal of the contractor's certificate of registration.

(3) Any person, firm, or corporation having a claim against the contractor for any of the items referred to in this section may bring suit against the contractor and the bond or deposit in the superior court of the county in which the work was done or of any county in which jurisdiction of the contractor may be had. The surety issuing the bond shall be named as a party to any suit upon the bond. Action upon the bond or deposit brought by a residential homeowner for breach of contract by a party to the construction contract shall be commenced by filing the summons and complaint with the clerk of the appropriate superior court within two years from the date the claimed contract work was substantially completed or abandoned, whichever occurred first. Action upon the bond or deposit brought by any other authorized party shall be commenced by filing the summons and complaint with the clerk of the appropriate superior court within one year from the date the claimed labor was performed and benefits accrued, taxes and contributions owing the state of Washington became due, materials and equipment were furnished, or the claimed contract work was substantially completed or abandoned, whichever occurred first. Service of process in an action filed under this chapter against the contractor and the contractor's bond or the deposit shall be exclusively by service upon the department. Three copies of the summons and complaint and a fee adopted by rule of not less than fifty dollars to cover the costs shall be served by registered or certified mail, or other delivery service requiring notice of receipt, upon the department at the time suit is started and the department shall maintain a record, available for public inspection, of all suits so commenced. Service is not complete until the department receives the fee and three copies

of the summons and complaint. The service shall constitute service and confer personal jurisdiction on the contractor and the surety for suit on claimant's claim against the contractor and the bond or deposit and the department shall transmit the summons and complaint or a copy thereof to the contractor at the address listed in the contractor's application and to the surety within two days after it shall have been received.

(4) The surety upon the bond shall not be liable in an aggregate amount in excess of the amount named in the bond nor for any monetary penalty assessed pursuant to this chapter for an infraction. The liability of the surety shall not cumulate where the bond has been renewed, continued, reinstated, reissued or otherwise extended. The surety upon the bond may, upon notice to the department and the parties, tender to the clerk of the court having jurisdiction of the action an amount equal to the claims thereunder or the amount of the bond less the amount of judgments, if any, previously satisfied therefrom and to the extent of such tender the surety upon the bond shall be exonerated but if the actions commenced and pending and provided to the department as required in subsection (3) of this section, at any one time exceed the amount of the bond then unimpaired, claims shall be satisfied from the bond in the following order:

- (a) Employee labor and claims of laborers, including employee benefits;
- (b) Claims for breach of contract by a party to the construction contract;
- (c) Registered or licensed subcontractors, material, and equipment;
- (d) Taxes and contributions due the state of Washington;
- (e) Any court costs, interest, and attorneys' fees plaintiff may be entitled to recover. The surety is not liable for any amount in excess of the penal limit of its bond.

A payment made by the surety in good faith exonerates the bond to the extent of any payment made by the surety.

(5) The total amount paid from a bond or deposit required of a general contractor by this section to claimants other than residential homeowners must not exceed one-half of the bond amount. The total amount paid from a bond or deposit required of a specialty contractor by this section to claimants other than residential homeowners must not exceed one-half of the bond amount or four thousand dollars, whichever is greater.

(6) The prevailing party in an action filed under this section against the contractor and contractor's bond or deposit, for breach of contract by a party to the construction contract involving a residential homeowner, is entitled to costs, interest, and reasonable attorneys' fees. The surety upon the bond or deposit is not liable in an aggregate amount in excess of the amount named in the bond or deposit nor for any monetary penalty assessed pursuant to this chapter for an infraction.

(7) If a final judgment impairs the liability of the surety upon the bond or deposit so furnished that there is not in effect a bond or deposit in the full amount prescribed in this section, the registration of the contractor is automatically suspended until the bond or deposit liability in the required amount unimpaired by unsatisfied judgment claims is furnished.

(8) In lieu of the surety bond required by this section the contractor may file with the department an assigned savings account, upon forms provided by the department.

(9) Any person having filed and served a summons and complaint as required by this section having an unsatisfied final judgment against the registrant for any items referred to in this section may execute upon the security held by the department by serving a certified copy of the unsatisfied final judgment by registered or certified mail upon the department within one year of the date of entry of such judgment. Upon the receipt of service of such certified copy the department shall pay or order paid from the deposit, through the registry of the superior court which rendered judgment, towards the amount of the unsatisfied

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judgment. The priority of payment by the department shall be the order of receipt by the department, but the department shall have no liability for payment in excess of the amount of the deposit.

(10) Within ten days after resolution of the case, a certified copy of the final judgment and order, or any settlement documents where a case is not disposed of by a court trial, a certified copy of the dispositive settlement documents must be provided to the department by the prevailing party. Failure to provide a copy of the final judgment and order or the dispositive settlement documents to the department within ten days of entry of such an order constitutes a violation of this chapter and a penalty adopted by rule of not less than two hundred fifty dollars may be assessed against the prevailing party.

(11) The director may require an applicant applying to renew or reinstate a registration or applying for a new registration to file a bond of up to three times the normally required amount, if the director determines that an applicant, or a previous registration of a corporate officer, owner, or partner of a current applicant, has had in the past five years a total of three final judgments in actions under this chapter involving a residential single-family dwelling on two or more different structures.

(12) The director may adopt rules necessary for the proper administration of the security.

NEW SECTION. Sec. 30. Sections 6 through 13 of this act take effect on January 1, 2010.

NEW SECTION. Sec. 31. Part headings used in this act are not any part of the law.

Re-number the sections consecutively and correct any internal references accordingly.

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

Senator Holmquist spoke against adoption of the striking amendment.

MOTION

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

On page 17, line 17, after "entity," insert "Construction professional" does not include a supplier of materials who has otherwise had no involvement in performing or furnishing the design, supervision, inspection, construction, or observation of the construction, of any improvement to residential real property."

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 17, line 17 to the striking amendment to Second Substitute Senate Bill No. 5895.

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove and Tom as amended to Second Substitute Senate Bill No. 5895.

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

MOTION

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

On page 1, line 1 of the title, after "Relating to" strike the

remainder of the title and insert: "improving residential real property construction by creating the office of consumer education for home construction, strengthening warranty protections applicable to residential real property construction, creating remedies, requiring third-party inspections, enhancing contractor registration requirements, establishing worker certification standards, and enhancing bonding requirements; amending RCW 4.16.310, 64.50.010, 18.27.030, 18.27.040; and 18.27.075; reenacting and amending 43.79A.040 and 43.79A.040; adding new sections to chapter 64.50 RCW; adding new sections to chapter 43.10 RCW; adding a new section to chapter 18.27 RCW; adding a new section to chapter 19.27, creating new sections, providing an effective date, and providing expiration dates".

MOTION

On motion of Senator Tom, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5895 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Tom, Fraser and Kohl-Welles spoke in favor of passage of the bill.

Senators Benton, Carrell, Sheldon, King, Schoesler, Honeyford, Stevens, Becker, Roach, Pflug and Holmquist spoke against passage of the bill.

Senator Franklin assumed the chair.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5895.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5895 and the bill passed the Senate by the following vote: Yeas, 25; Nays, 24; Absent, 0; Excused, 0.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Regala, Rockefeller and Tom

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

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5895, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Engrossed Second Substitute Senate Bill No. 5895 was immediately transmitted to the House of Representatives.

MOTION

At 1:15 p.m., on motion of Senator Eide, the Senate was recessed until 2:15 p.m.

AFTERNOON SESSION

The Senate was called to order at 2:15 p.m. by President Pro Tempore.

SECOND READING

SENATE BILL NO. 5892, by Senators Keiser and Shin

Concerning prescription drug use in state purchased health care programs.

MOTION

On motion of Senator Keiser, Substitute Senate Bill No. 5892 was substituted for Senate Bill No. 5892 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Keiser moved that the following striking amendment by Senators Keiser and Pflug be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 69.41.190 and 2006 c 233 s 1 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, any pharmacist filling a prescription under a state purchased health care program as defined in RCW 41.05.011(2) shall substitute, where identified, a preferred drug for any nonpreferred drug in a given therapeutic class, unless the endorsing practitioner has indicated on the prescription that the nonpreferred drug must be dispensed as written, or the prescription is for a refill of an antipsychotic, antidepressant, chemotherapy, antiretroviral, or immunosuppressive drug, or for the refill of an immunomodulator/antiviral treatment for hepatitis C for which an established, fixed duration of therapy is prescribed for at least twenty-four weeks but no more than forty-eight weeks, in which case the pharmacist shall dispense the prescribed nonpreferred drug.

~~((2))~~ (b) When a substitution is made under (a) of this subsection ~~((1) of this section)),~~ the dispensing pharmacist shall notify the prescribing practitioner of the specific drug and dose dispensed.

(2)(a) A state purchased health care program may impose limited restrictions on an endorsing practitioner's authority to write a prescription to dispense as written only under the following circumstances:

(i) There is statistical or clear data demonstrating the endorsing practitioner's frequency of prescribing dispensed as written for nonpreferred drugs varies significantly from the prescribing patterns of his or her peers;

(ii) The medical director of a state purchased health program has: (A) Presented the endorsing practitioner with data that indicates the endorsing practitioner's prescribing patterns vary significantly from his or her peers, (B) provided the endorsing practitioner an opportunity to explain the variation in his or her prescribing patterns to those of his or her peers, and (C) if the variation in prescribing patterns cannot be explained, provided the endorsing practitioner sufficient time to change his or her prescribing patterns to align with those of his or her peers; and

(iii) The restrictions imposed under (a) of this subsection (2) must be limited to the extent possible to reduce variation in prescribing patterns and shall remain in effect only until such time as the endorsing practitioner can demonstrate a reduction in variation in line with his or her peers.

(b) A state purchased health care program may immediately designate an available, less expensive generic product in a previously reviewed drug class as a preferred drug, without first submitting the product to review by the pharmacy and therapeutics committee established pursuant to RCW 70.14.050.

(c) Subject to the refill provisions in subsection (1)(a) of this section, for a patient's first course of treatment within a therapeutic class of drugs, a state purchased health care program may impose limited restrictions on endorsing practitioners' authority to write a prescription to dispense as written, only

under the following circumstances:

(i) There is a less expensive therapeutic alternative generic product available to treat the condition;

(ii) The drug use review board established under WAC 388-530-4000 reviews and provides recommendations as to the appropriateness of the limitation;

(iii) Notwithstanding the limitation set forth in (c)(ii) of this subsection, the endorsing practitioner shall have an opportunity to request as medically necessary, as defined in WAC 388-501-0165(3), that the brand name drug be prescribed as the first course of treatment; and

(iv) The state purchased health care program may provide, where available, prescription, emergency room, diagnosis, and hospitalization history with the endorsing practitioner.

(d) If, within a therapeutic class, there is a therapeutic alternative over-the-counter drug available, a state purchased health care program may designate the over-the-counter drug as the preferred drug.

(e) A state purchased health care program may impose limited restrictions on endorsing practitioners' authority to prescribe pharmaceuticals to be dispensed as written for a purpose outside the scope of their approved labels only under the following circumstances:

(i) There is a less expensive on label product available to treat the condition;

(ii) The drug use review board established under WAC 388-530-4000 reviews and provides recommendations as to the appropriateness of the limitation; and

(iii) Notwithstanding the limitation set forth in (e)(ii) of this subsection, the endorsing practitioner shall have an opportunity to request as medically necessary, as defined in WAC 388-501-0165(3), that the drug be prescribed for an off-label purpose.

NEW SECTION. Sec. 2. 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 Keiser spoke in favor of adoption of the striking amendment.

MOTION

Senator Keiser moved that the following amendment by Senators Hargrove and Keiser to the striking amendment be adopted.

On page 2, after "practitioner." on line 37, insert the following:

"(v) Specifically for antipsychotic restrictions, the state purchased health care program shall effectively guide good practice without interfering with the timeliness of clinical decision making."

Senators Hargrove and Pflug spoke in favor of adoption of the amendment to the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators Hargrove and Keiser on page 2, after line 17 to the striking amendment to Substitute Senate Bill No. 5892.

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

MOTION

On motion of Senator Brandland, Senators Holmquist and Roach were excused.

MOTION

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

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The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senators Keiser and Pflug as amended to Substitute Senate Bill No. 5892.

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

MOTION

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

On page 1, line 3 of the title, after "manner;" strike the remainder of the title and insert "amending RCW 69.41.190; and declaring an emergency."

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute Senate Bill No. 5892 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.

POINT OF INQUIRY

Senator Pflug: "Would Senator Keiser yield to a question? Senator, is it your understanding that nothing in subsection 2, sub 3 of Senate Bill No. 5892 is intended to allow a state purchased health care program to establish or implement an automatic antipsychotic fail first therapy treatment regimen requiring a patient to start a pharmaceutical therapy regimen in which the least expensive drug option must be found ineffective before the patient is provided access to more expensive pharmaceutical agents?"

Senator Keiser: "Yes, it is my understanding that Senate Bill No. 5892 will not establish or implement an automatic fail first therapy treatment regimen for antipsychotic medications."

Senator Brandland spoke in favor of passage of the bill.

Senators Carrell, Honeyford and Becker spoke against the passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5892.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5892 and the bill passed the Senate by the following vote: Yeas, 33; Nays, 16; Absent, 0; Excused, 0.

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

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

ENGROSSED SUBSTITUTE SENATE BILL NO. 5892, 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 2:44 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 3:52 p.m. by the President Pro Tempore.

SECOND READING

SENATE BILL NO. 5638, by Senators Swecker, Haugen, Hewitt, Schoesler and Shin

Concerning fire protection district contracts.

MOTIONS

On motion of Senator Fairley, Substitute Senate Bill No. 5638 was substituted for Senate Bill No. 5638 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Swecker, the rules were suspended, Substitute Senate Bill No. 5638 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Swecker spoke in favor of passage of the bill.

MOTION

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

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5638.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5638 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 5; Absent, 3; Excused, 2.

Voting yea: Senators Becker, Berkey, Brandland, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Benton, Carrell, Delvin, McCaslin and Morton

Absent: Senators Kohl-Welles, Pflug and Prentice

Excused: Senators Brown and Kline

SUBSTITUTE SENATE BILL NO. 5638, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5568, by Senators Tom, Rockefeller and Shin

Enhancing tax collection tools for the department of revenue in order to promote fairness and administrative efficiency.

The measure was read the second time.

MOTION

On motion of Senator Tom, the rules were suspended, Senate Bill No. 5568 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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Senator Tom spoke in favor of passage of the bill.

MOTION

On motion of Senator Kauffman, Senators Kohl-Welles and Prentice were excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5568.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5568 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 3; Absent, 1; Excused, 2.

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

Voting nay: Senators Carrell, McCaslin and Morton

Absent: Senator Pflug

Excused: Senators Brown and Kline

SENATE BILL NO. 5568, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5141, by Senators Hargrove, Regala and Shin

Creating a pilot program to increase family participation in juvenile offender programs.

MOTIONS

On motion of Senator Hargrove, Substitute Senate Bill No. 5141 was substituted for Senate Bill No. 5141 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hargrove, the rules were suspended, Substitute Senate Bill No. 5141 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

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

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5141.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5141 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, 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, Prentice, Pridemore, Ranker, Regala,

Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brown, Kline and Pflug

SUBSTITUTE SENATE BILL NO. 5141, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5742, by Senators Hargrove, McCaslin, Hobbs, Schoesler and Hatfield

Concerning local government crime-free rental housing programs. Revised for 1st Substitute: Concerning crime-free rental housing.

MOTION

On motion of Senator Hargrove, Substitute Senate Bill No. 5742 was substituted for Senate Bill No. 5742 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Hargrove moved that the following striking amendment by Senators Hargrove, Keiser and Brandland be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that local governments, landlords, and tenants working together to provide crime-free rental housing is beneficial to the public health, safety, and welfare. The intent of this act is to provide certain requirements that a local government must follow in adopting a crime-free rental housing program.

NEW SECTION. Sec. 2. A new section is added to chapter 35.21 RCW to read as follows:

(1) A city, town, or county may adopt and implement a local government crime-free rental housing program designed to reduce crime, drugs, and gangs on rental properties in accordance with this section.

(2) Except as provided in subsection (5) of this section, a crime-free rental housing program must be voluntary and may include:

(a) Landlord training to educate property owners and managers in the basics of crime prevention on rental premises;

(b) Crime prevention through environmental design assessment to identify crime hazards and ways to improve the safety of the premises; or

(c) Commitments to implement and maintain crime-free activities, such as proper screening of tenants, use of a crime-free addendum in rental agreements, neighborhood education, and maintaining open communication with law enforcement.

(3) A crime-free rental housing program may not:

(a) Prohibit a landlord from hiring or renting to individuals with criminal backgrounds;

(b) Condition a business license or any other prerequisite to owning or operating rental housing in the city, town, or county on participation in the program; or

(c) Except as provided in subsections (4) and (5) of this section, charge additional or separate fees to a landlord who does not participate in the program, including fees for providing law enforcement services to a landlord's rental property.

(4) A city, town, or county may waive all or part of the cost of a landlord's business license or rental registration fee in exchange for participation in the program so long as the fee does not exceed the greater of the amount of a standard business license or rental registration fee in the jurisdiction or seven hundred fifty dollars.

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(5)(a) If law enforcement has investigated criminal activity on the rental housing premises of a landlord on three separate occasions within a three-month period and the landlord has not made a good faith effort to deter the criminal activity, the city, town, or county may require the landlord to do one or both of the following:

- (i) Participate in a crime-free rental housing program;
- (ii) Pay a monetary penalty set forth in ordinance for any police call for criminal activity, not to exceed one hundred fifty dollars per call, until the criminal activity is abated.

(b) A good faith effort may include, but is not limited to:

(i) Service on the tenant of a notice to comply or quit as allowed by law or the commencement of an unlawful detainer action against the tenant;

(ii) Attendance and completion of a landlord training program provided by the city, town, or county;

(iii) Utilization of a crime-free addendum for tenants who are alleged to have engaged in criminal activity; or

(iv) Communication with law enforcement of methods to prevent criminal activity and reasonable implementation of recommended steps.

(6) This section does not prevent a city, town, or county from charging a fee for participation in a crime-free rental housing program.

(7) This section does not affect a city, town, or county's authority to enforce existing law in regard to rental housing, except in regard to a crime-free rental housing program.

(8) As used in this section:

(a) "Criminal activity" means a criminal act defined by statute or ordinance that threatens the health, safety, or welfare of the tenants, owner, or property manager.

(b) "Premises" has the same meaning as provided in RCW 59.18.030.

(c) "Rental housing" means any tenancy subject to chapter 59.12, 59.18, or 59.20 RCW."

Senators Hargrove, Stevens, Keiser and Brandland spoke in favor of adoption of the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove, Keiser and Brandland to Substitute Senate Bill No. 5742.

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

MOTION

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

On page 1, line 1 of the title, after "housing;" strike the remainder of the title and insert "adding a new section to chapter 35.21 RCW; and creating a new section."

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Substitute Senate Bill No. 5742 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5742.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5742 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, 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, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Tom

Voting nay: Senator Zarelli

Excused: Senators Brown and Pflug

ENGROSSED SUBSTITUTE SENATE BILL NO. 5742, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5708, by Senators Eide, Franklin and Kline

Authorizing a mileage-based motor vehicle liability policy. Revised for 1st Substitute: Authorizing usage-based rating factors for motor vehicle insurance.

MOTIONS

On motion of Senator Eide, Substitute Senate Bill No. 5708 was substituted for Senate Bill No. 5708 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Eide, the rules were suspended, Substitute Senate Bill No. 5708 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Eide and Berkey spoke in favor of passage of the bill.

Senator Benton spoke against passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5708.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5708 and the bill passed the Senate by the following vote: Yeas, 32; Nays, 15; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, 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, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Roach, Schoesler, Stevens, Swecker and Zarelli

Excused: Senators Brown and Pflug

SUBSTITUTE SENATE BILL NO. 5708, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5951, by Senators Roach, Hatfield, Pridemore and McDermott

Protecting the voter's signature and telephone number on envelopes provided for return of voted ballots.

The measure was read the second time.

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MOTION

On motion of Senator Roach, the rules were suspended, Senate Bill No. 5951 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Roach spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5951.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5951 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, 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, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brown and Pflug

SENATE BILL NO. 5951, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5967, by Senators Kohl-Welles, Fairley, Fraser, McAuliffe and Kline

Prohibiting unfair practices in public community athletics programs by prohibiting discrimination on the basis of sex.

MOTION

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 5967 was substituted for Senate Bill No. 5967 and the substitute bill was placed on the second reading and read the second time.

MOTION

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

On page 3, line 35, after "possible." insert "Nothing in this section may be construed to require school districts to monitor compliance, investigate complaints, or otherwise enforce school district policies as to third parties using school district facilities."

Senators McAuliffe and King spoke in favor of adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators McAuliffe and King on page 3, line 35 to Substitute Senate Bill No. 5967.

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

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Substitute Senate Bill No. 5967 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5967.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5967 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 4; Absent, 2; Excused, 2.

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

Voting nay: Senators Hewitt, King, McCaslin and Morton

Absent: Senators Holmquist and Kline

Excused: Senators Brown and Pflug

ENGROSSED SUBSTITUTE SENATE BILL NO. 5967, 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, Senator Keiser was excused.

SECOND READING

SENATE BILL NO. 5433, by Senators Regala, Swecker, Rockefeller, Morton, Fraser, Ranker, Fairley and Shin

Modifying provisions of local option taxes.

MOTIONS

On motion of Senator Regala, Second Substitute Senate Bill No. 5433 was substituted for Senate Bill No. 5433 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Regala, the rules were suspended, Second Substitute Senate Bill No. 5433 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senators Schoesler and Benton spoke against passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5433.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5433 and the bill passed the Senate by the following vote: Yeas, 31; Nays, 16; Absent, 0; Excused, 2.

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

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

Excused: Senators Brown and Pflug

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SECOND SUBSTITUTE SENATE BILL NO. 5433, 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, Senator Brown was excused.

SECOND READING

SENATE BILL NO. 5127, by Senators Jacobsen and Haugen

Concerning the governance of the department of fish and wildlife.

The measure was read the second time.

The President Pro Tempore declared the substitute bill to Senate Bill No. 5127 to be in order.

POINT OF ORDER

Senator Morton: "Madam President, I rise to a point of order that Substitute Senate Bill No. 5127 is beyond the scope and object of the underlying bill. If I may, I would present the arguments at your pleasure. The Constitution and Senate Rules prohibit amendments which change the scope and object of the bill. Substitute bills are considered amendments for purposes of this analysis. In past rulings, the President has compared the language within the four corners of the underlying bill and the amendment. The underlying bill makes numerous changes to the structure of the Fish and Wildlife Commission including but not limited to reducing the number of commissioners, reducing the length of the terms of commissioners and limiting the number of Commission meetings held annually. The underlying bill also transfers the authority to appoint the director from the Commission to the governor. Like the underlying bill the substitute bill makes substantial changes to the structure of the Commission however, the substitute bill goes beyond mere structural changes and transfers the substantive authority to manage fish and wildlife from the Commission to the Department and the director. The substitute bill also amends numerous statutes to carry out this general transfer of authority resulting in a document many times larger than the underlying bill. In fact, it goes from five to a hundred and three pages. It also adds an emergency clause to prevent a referendum vote. The transfer of fish and wildlife management authority and the substitute bill is beyond therefore the scope and object of the underlying bill and I respectfully request that you rule accordingly. Thank you Madam President."

MOTION

On motion of Senator Eide, further consideration of Senate Bill No. 5127 was deferred and the bill held its place on the second reading calendar.

SECOND READING

SENATE JOINT MEMORIAL NO. 8012, by Senators Fraser, Kohl-Welles, Prentice, Fairley, Berkey, Franklin, Regala, Marr, Shin, Eide, Kastama, Murray, Haugen, Oemig, McDermott and Kline

Urging adoption of a treaty fighting discrimination against women.

The measure was read the second time.

MOTION

On motion of Senator Fraser, the rules were suspended, Senate Joint Memorial No. 8012 was advanced to third reading, the second reading considered the third and the memorial was placed on final passage.

Senators Fraser and Kohl-Welles spoke in favor of passage of the memorial.

Senator Stevens spoke against passage of the memorial.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Joint Memorial No. 8012.

ROLL CALL

The Secretary called the roll on the final passage of Senate Joint Memorial No. 8012 and the memorial passed the Senate by the following vote: Yeas, 33; Nays, 14; Absent, 1; Excused, 1.

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

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

Absent: Senator Brandland

Excused: Senator Pflug

SENATE JOINT MEMORIAL NO. 8012, having received the constitutional majority, was declared passed.

SECOND READING

SENATE BILL NO. 5651, by Senators Kohl-Welles, Delvin, Kline and Tom

Providing humanitarian requirements for certain dog breeding practices.

MOTION

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 5651 was substituted for Senate Bill No. 5651 and the substitute bill was placed on the second reading and read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** The legislature finds that:

(1) Dogs are neither a commercial crop nor commodity and should not be indiscriminately or irresponsibly mass produced;

(2) Large-scale dog breeding increases the likelihood that the dogs will be denied their most basic needs including but not limited to: Sanitary living conditions, proper and timely medical care, the ability to move freely at least once per day, and adequate shelter from the elements;

(3) Without proper oversight, large-scale breeding facilities can easily fall below even the most basic standards of humane housing and husbandry;

(4) Current Washington state laws are inadequate regarding the care and husbandry of dogs in large-scale breeding facilities;

(5) No Washington state agency currently regulates large-scale breeding facilities;

(6) The United States department of agriculture does not regulate large-scale breeding facilities that sell dogs directly to

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the public and thus, such direct-sales breeders are currently exempt from even the minimum care and housing standards outlined in the federal animal welfare act;

(7) Documented conditions at large-scale breeding facilities include unsanitary conditions, potential for soil and groundwater contamination, the spread of zoonotic parasites and infectious diseases, and the sale of sick and dying animals to the public; and

(8) An unfair fiscal burden is placed on city, county, and state taxpayers as well as government agencies and nongovernmental organizations, who are required to care for discarded or abused and neglected dogs from large-scale breeding facilities.

NEW SECTION. Sec. 2. A new section is added to chapter 16.52 RCW to read as follows:

(1) A person may not own, possess, control, or otherwise have charge or custody of more than fifty dogs with intact sexual organs over the age of six months at any time.

(2) Any person who owns, possesses, controls, or otherwise has charge or custody of more than ten dogs with intact sexual organs over the age of six months and keeps the dogs in an enclosure for the majority of the day must at a minimum:

(a) Provide space to allow each dog to turn about freely, to stand, sit, and lie down. The dog must be able to lie down while fully extended without the dog's head, tail, legs, face, or feet touching any side of an enclosure and without touching any other dog in the enclosure when all dogs are lying down simultaneously. The interior height of the enclosure must be at least six inches higher than the head of the tallest dog in the enclosure when it is in a normal standing position. Each enclosure must be at least three times the length and width of the longest dog in the enclosure, from tip of nose to base of tail and shoulder blade to shoulder blade.

(b) Provide each dog that is over the age of four months with a minimum of one exercise period during each day for a total of not less than one hour of exercise during such day. Such exercise must include removing the dog from the dog's primary enclosure and either leash walking or giving the dog access to an enclosure at least four times the size of the primary enclosure allowing the dog free mobility for the entire exercise period, but may not include use of a treadmill, cat mill, jenny mill, slat mill, or similar device, unless prescribed by a doctor of veterinary medicine. The exercise requirements in this subsection do not apply to a dog certified by a doctor of veterinary medicine as being medically precluded from exercise.

(c) Maintain adequate housing facilities and primary enclosures that meet the following requirements at a minimum:

(i) Housing facilities and primary enclosures must be kept in a sanitary condition. Housing facilities where dogs are kept must be sufficiently ventilated at all times to minimize odors, drafts, ammonia levels, and to prevent moisture condensation. Housing facilities must be equipped with a working smoke alarm and have a means of fire suppression, such as functioning fire extinguishers or a functioning sprinkler system on the premises and must have sufficient lighting to allow for observation of the dogs at any time of day or night;

(ii) Housing facilities must enable all dogs to remain dry and clean;

(iii) Housing facilities must provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to the dogs. Ambient temperature must not fall below fifty degrees Fahrenheit or rise above eighty-five degrees Fahrenheit;

(iv) Housing facilities must provide sufficient shade to shelter all the dogs housed in the primary enclosure at one time;

(v) A primary enclosure must have floors that are constructed in a manner that protects the dogs' feet and legs from injury. Raised kennels must be slatted with a solid resting surface. The following must be met for floors constructed with

slats: (A) Slats must be flat; must have spaces in between that are no more than 0.5 inches in width; (B) slats must have spaces between them that run the length of the floor; (C) slats must be no less than one inch in width; (D) slats must be level with the slat next to it within a single enclosure; (E) slats must be strong enough so that the slats do not sag or bend between structural supports; and (F) slats must be constructed of a material impervious to moisture and able to be cleaned and sanitized;

(vi) Primary enclosures must be placed no higher than forty-two inches above the floor and may not be placed over or stacked on top of another cage or primary enclosure;

(vii) Feces, hair, dirt, debris, and food waste must be removed from primary enclosures at least daily or more often if necessary to prevent accumulation and to reduce disease hazards, insects, pests, and odors; and

(viii) All dogs housed in the same enclosure must be compatible, as determined by observation. Animals with a vicious or aggressive disposition must be housed individually. Breeding females in heat may not be housed in the same enclosure with sexually mature males, except for breeding. Breeding females with litters may not be housed in the same enclosure with other adult dogs. Puppies under twelve weeks may not be housed in the same enclosure with other adult dogs, other than the dam or foster dam unless under immediate supervision.

(d) Provide dogs with easy and convenient access to adequate amounts of clean food and water. Food and water receptacles must be readily cleaned and sanitized. Enclosures must contain potable water that is not frozen, is free from debris, and is readily accessible to all dogs at all times.

(e) Provide veterinary care without delay when necessary. A male unaltered dog must be examined by a veterinarian at least once a year. A female unaltered dog must be examined by a veterinarian at least once a year or prior to each attempt at breeding, whichever occurs more frequently. A dog may not be bred if a veterinarian determines that the animal is unfit for breeding purposes. Only dogs between the ages of twelve months and eight years of age may be used for breeding. Animals requiring euthanasia must be euthanized only by a licensed veterinarian.

(3) Any animal control officer or other authorized public health or safety official may, upon receiving a complaint or upon the officer's own motion, investigate any violation of subsections (1) and (2) of this section.

(4) A person who violates this section is guilty of a gross misdemeanor.

(5) This section does not apply to the following:

(a) A publicly operated animal control facility or animal shelter;

(b) A private, charitable not-for-profit humane society or animal adoption organization;

(c) A veterinary facility;

(d) A retail pet store;

(e) A research institution;

(f) A boarding facility;

(g) A grooming facility; or

(h)(i) A commercial dog breeder licensed, before the effective date of this act, by the United States department of agriculture pursuant to the federal animal welfare act (Title 7 U.S.C. Sec. 2131 et seq.); or

(ii) A commercial dog breeder licensed, on or after the effective date of this act, by the United States department of agriculture pursuant to the federal animal welfare act (Title 7 U.S.C. Sec. 2131 et seq.), except as provided otherwise in this subsection. Subsection (1) of this section applies to a commercial dog breeder under this subsection (5)(h)(ii).

(6) For the purposes of this section, the following definitions apply, unless the context clearly requires otherwise:

(a) "Dog" means any member of *Canis lupus familiaris*;

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(b) "Large-scale breeding facility" means a breeding facility that has fifty or more dogs with intact sexual organs; and

(c) "Retail pet store" means a commercial establishment that engages in a for-profit business of selling at retail cats, dogs, or other animals to be kept as household pets. This term does not include: (i) Any person or establishment that breeds or raises animals to sell, exchange, broker, or otherwise transfer the animals to the public as household pets; and (ii) publicly operated animal control facilities or animal shelters, private, charitable not-for-profit humane societies, or animal adoption organizations.

NEW SECTION. Sec. 3. This act takes effect January 1, 2010."

Senators Kohl-Welles and Delvin spoke in favor of adoption of the striking amendment.

Senator Schoesler spoke against adoption of the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senators Kohl-Welles and Becker to Substitute Senate Bill No. 5651.

MOTION

On motion of Senator Delvin, Senator Brandland was excused.

The motion by Senator Kohl-Welles carried and the striking amendment was adopted by a rising vote.

MOTION

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

On page 1, line 2 of the title, after "practices;" strike the remainder of the title and insert "creating a new section; prescribing penalties; and providing an effective date."

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Substitute Senate Bill No. 5651 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill. Senator Schoesler spoke against passage of the bill.

MOTION

On motion of Senator Delvin, Senator Roach was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5651.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5651 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 11; Absent, 0; Excused, 3.

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

Voting nay: Senators Becker, Hatfield, Hewitt, Holmquist, Honeyford, McCaslin, Morton, Parlette, Schoesler, Swecker and Zarelli

Excused: Senators Brandland, Pflug and Roach

ENGROSSED SUBSTITUTE SENATE BILL NO. 5651, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

MESSAGE FROM THE HOUSE

March 10, 2009

MR. PRESIDENT:

The House has passed the following bills:
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1114,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1379,
 HOUSE BILL NO. 1517,
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1698,
 SUBSTITUTE HOUSE BILL NO. 1808,
 ENGROSSED HOUSE BILL NO. 1967,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2105,
 ENGROSSED HOUSE BILL NO. 2122,
 ENGROSSED HOUSE BILL NO. 2138,
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

At 5:41 p.m., on motion of Senator Eide, the Senate was recessed until 6:45 p.m..

EVENING SESSION

The Senate was called to order at 6:45 p.m. by President Owen.

MOTION

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

SECOND READING

SENATE BILL NO. 5807, by Senators Brandland, Fraser, McAuliffe, King, Oemig and Shin

Concerning the use of capital projects funds by school districts.

MOTION

On motion of Senator Brandland, Substitute Senate Bill No. 5807 was substituted for Senate Bill No. 5807 and the substitute bill was placed on the second reading and read the second time.

MOTION

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

On page 2, line 14, after "renovation" strike all material through "the" and insert "~~(including the)~~ and"

On page 2, line 15, after "economical" strike all material through "extends" on line 16, and insert "or extend"

On page 2, line 17, after "life." strike "Major" and insert "~~(Major)~~ Such"

On page 2, line 19, after "repairs," insert "exterior painting"

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of facilities."

On page 3, line 26, after "repair," insert "exterior"

Senator Brandland 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 Brandland on page 2, line 14 to Substitute Senate Bill No. 5807.

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

MOTION

On motion of Senator Brandland, the rules were suspended, Engrossed Substitute Senate Bill No. 5807 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Brandland spoke in favor of passage of the bill.

MOTION

On motion of Senator Brandland, Senators Becker, Benton, Carrell, Delvin, Holmquist and Roach were excused.

MOTION

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

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5807.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5807 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 1; Absent, 1; Excused, 3.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, 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, Tom and Zarelli

Voting nay: Senator Honeyford

Absent: Senator Kline

Excused: Senators Benton, Carrell and Fairley

ENGROSSED SUBSTITUTE SENATE BILL NO. 5807, 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 Roach, Senator Benton was excused.

SECOND READING

SENATE BILL NO. 5537, by Senator Fraser

Eliminating the statutory debt limit.

MOTIONS

On motion of Senator Fraser, Substitute Senate Bill No. 5537 was substituted for Senate Bill No. 5537 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Fraser, the rules were suspended, Substitute Senate Bill No. 5537 was advanced to third reading,

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

Senator Fraser spoke in favor of passage of the bill.

MOTION

On motion of Senator Holmquist, Senator Brandland was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5537.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5537 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 16; Absent, 0; Excused, 4.

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

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

Excused: Senators Benton, Brandland, Carrell and Fairley

SUBSTITUTE SENATE BILL NO. 5537, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5071, by Senator Jacobsen

Designating the Olympic marmot the official endemic mammal of the state of Washington.

The measure was read the second time.

MOTION

On motion of Senator Jacobsen, the rules were suspended, Senate Bill No. 5071 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Jacobsen spoke in favor of passage of the bill.

POINT OF INQUIRY

Senator Marr: "Would Senator Jacobsen yield to a question? Mr. President, I find it always makes sense to ferret out the truth in Senator Jacobsen's claims and I have learned that the rodent to which he refers and it is a rodent. It's genus Marmota in the rodent family Sciuridae which is, apparently is, related to the squirrels which includes large ground squirrels, ground hogs, woodchucks and prairie dogs and so my question Senator Jacobsen, are we simply tarting up a woodchuck or is this a legitimate claim? The other would be, as long as we're talking about the noble creature, the marmot, how about Marmota caligata which is, you know, found commonly along the Spokane River? The most famous one is, you know, Marty the marmot, who is the official mascot of Riverfront Park. So, I would ask you, doesn't Marty deserve some consideration here?"

Senator Jacobsen: "Well, this is an endemic because it's only found in one state, this state. The others might be found in

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Idaho or British Columbia so it spreads over a larger geographical range and there's a very technical term in here, 'endemic to the state of Washington.' And there might be a little, I have to be honest with the members, there's, I'm a birder and I don't know if you, in birding, you know there's lumpers and splitters. Lumpers put a couple species together after they study them further and realize that they are identical even if they are a little bit different. Then there's splitters and they look at a bird that's a little bit different and they move it apart. Well, since I started this bill and been thwarted for so many years by this legislature that they, there's a study going on right now to see if the Thompson squirrel found north of the Columbia River and south of I-90? It might be a genetically distinct from the ground squirrels in other parts. So I was sort of reluctant when the reader used the word 'only' and if possibly there might be another but it would be the only two mammals found in the state. I wanted to get this bill through before the legislators from those districts figured it out."

REMARKS BY SENATOR ROCKEFELLER

Senator Rockefeller: "Mr. President, if we vote for this bill would Senator Jacobsen really go home?"

Senator Morton spoke in favor of passage of the bill.

MOTION

On motion of Senator Kauffman, Senator Pridemore was excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5071.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5071 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 4; Absent, 0; Excused, 2.

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

Voting nay: Senators Jarrett, McCaslin, Schoesler and Zarelli

Excused: Senators Fairley and Pridemore

SENATE BILL NO. 5071, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6070, by Senator Hatfield

Regarding disposal of dredged riverbed materials.

The measure was read the second time.

MOTION

On motion of Senator Hatfield, the rules were suspended, Senate Bill No. 6070 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hatfield and Morton spoke in favor of passage of

the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6070.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6070 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

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

Voting nay: Senators Fraser and McDermott

Excused: Senator Fairley

SENATE BILL NO. 6070, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5943, by Senators Hargrove, Stevens, Fairley, Regala, McAuliffe, Jarrett, Tom, Brandland, Kauffman, Kline, Delvin and Shin

Requiring performance-based contracts for the provision of child welfare services.

MOTION

On motion of Senator Hargrove, Second Substitute Senate Bill No. 5943 was substituted for Senate Bill No. 5943 and the second substitute bill was placed on the second reading and read the second time.

MOTION

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

On page 5, line 11, after "(1)" strike "On" and insert "Subject to the provisions of section 8 of this act, on"

On page 10, after line 5, insert the following:

"NEW SECTION. Sec. 8. A new section is added to chapter 74.13 RCW to read as follows:

The plan created pursuant to section 7(2) of this act shall be presented by the committee to the governor and legislature not later than August 1, 2010. No action shall be taken by the department to implement the plan without the consent of the legislature. Such consent shall be expressed by legislative enactment of a bill approved by the senate and house of representatives and governor."

Re-number the remaining sections consecutively and correct any internal references accordingly.

On page 104, line 18, after "through" strike "7" and insert "8"

On page 104, line 21, after "(3)" strike "Section 7 of this act is" and insert "Sections 7 and 8 of this act are"

On page 104, line 23, after "institutions, and" strike "takes" and insert "take"

Senator Fraser spoke in favor of adoption of the amendment.

Senator Hargrove spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Fraser on page 5, line 11 to Second Substitute Senate Bill No. 5943.

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The motion by Senator Fraser failed and the amendment was not adopted by voice vote.

MOTION

Senator Regala moved that the following amendment by Senators Regala, Hargrove and Stevens be adopted.

On page 6, after line 20, strike all material through "basis" on line 27 and insert:

"As child welfare services caseworker and staff vacancies occur due to voluntary employee departures, and if the department determines those positions should be filled by state workers because there are insufficient supervising agency resources available in that region to provide the necessary child welfare services, the department shall review its current staff assignments and transfer staff with sufficient child welfare services experience in other units in the region to the vacant child welfare services position or positions. If this occurs, the department shall determine if there are other services in the region where the work could be performed by supervising agencies.

Senators Regala and Hargrove spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Regala, Hargrove and Stevens on page 6, after line 10 to Second Substitute Senate Bill No. 5943.

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

MOTION

Senator Fraser moved that the following amendment by Senators Fraser and Hargrove be adopted.

On page 9, line 13, after "changes" insert ", and the feasibility of the plan and the impact of the plan on department employees during the transition"

Senators Fraser, Hargrove and Stevens spoke in favor of adoption of the amendment.

POINT OF INQUIRY

Senator Roach: "Would Senator Hargrove yield to a question? Thank you, I'm trying to get a hold of this bill and been looking at it and because we have a few amendments to go and have an opportunity to ask some questions I wanted to take this opportunity to do that. If this bill were to pass and the functions go to private agencies how would there been any oversight on those private agencies? I say that, good Senator, because right now though the department is so incredibly ill run and so many disasters have occurred, there's no accountability within Childrens Administration. It's just outrageous. Employees are allowed because of lack of leadership to do things, never to be accountable. How do you believe that this system would be better rather than correcting the one that we have right now? Why would this be better? Wouldn't it just drive a bad system underground and the legislative branch wouldn't have the ability to look at what's going on?"

Senator Hargrove: "Well, there was a lot more than a question in that statement but I guess the point is that all of our existing laws about both representation for parents and about the oversight of the courts in the system. None of that goes away and in fact the private agencies that would have these contracts would have contracts with the state and the state would have contracts standards that they would be monitoring and instead of the state basically checking on itself, which is kind of like the fox watching the chicken house, we will now have state

contracts specialists holding contractors very much more accountable for the things we want to see done in the system. So, is going to completely solve all the problems that you bumped into this last year. Maybe not but it's going to make some major headway in that direction."

The President declared the question before the Senate to be the adoption of the amendment by Senators Fraser and Hargrove on page 9, line 13 to Second Substitute Senate Bill No. 5943.

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

MOTION

Senator Keiser moved that the following amendment by Senators Keiser and Fraser be adopted.

Beginning on page 67, line 9, strike all of section 46
Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 1, line 8 of the title, after "13.34.400," strike "41.06.142,"

Senators Keiser and Fraser spoke in favor of adoption of the amendment.

Senators Hargrove and Stevens spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser and Fraser on page 67, line 9 to Second Substitute Senate Bill No. 5943.

The motion by Senator Keiser failed and the amendment was not adopted by voice vote.

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5943 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove, Zarelli, Stevens, Jarrett and Shin spoke in favor of passage of the bill.

Senators Roach, Sheldon, Fraser, Keiser spoke against passage of the bill.

MOTION

On motion of Senator Marr, Senator Hobbs was excused.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5943.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5943 and the bill passed the Senate by the following vote: Yeas, 33; Nays, 15; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Hargrove, Hatfield, Haugen, Hewitt, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, King, Kline, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Regala, Rockefeller, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Benton, Brown, Fraser, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McDermott, Prentice, Pridemore, Ranker, Roach, Schoesler and Sheldon

Excused: Senator Hobbs

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5943, having received the constitutional majority, was

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declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

The Senate resumed consideration of Second Substitute Senate Bill No. 5809 which was held on second reading March 7, 2009.

SECOND READING

SECOND SUBSTITUTE SENATE BILL NO. 5809, by Senate Committee on Ways & Means (originally sponsored by Senator Hargrove)

Creating a temporary workforce employment and training program. Revised for 2nd Substitute: Revising unemployment compensation and workforce training provisions.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 50.16.010 and 2009 c 4 s 906 are each amended to read as follows:

(1) There shall be maintained as special funds, separate and apart from all public moneys or funds of this state an unemployment compensation fund, an administrative contingency fund, and a federal interest payment fund, which shall be administered by the commissioner exclusively for the purposes of this title, and to which RCW 43.01.050 shall not be applicable.

(2)(a) The unemployment compensation fund shall consist of:

(i) All contributions collected under RCW 50.24.010 and payments in lieu of contributions collected pursuant to the provisions of this title;

(ii) Any property or securities acquired through the use of moneys belonging to the fund;

(iii) All earnings of such property or securities;

(iv) Any moneys received from the federal unemployment account in the unemployment trust fund in accordance with Title XII of the social security act, as amended;

(v) All money recovered on official bonds for losses sustained by the fund;

(vi) All money credited to this state's account in the unemployment trust fund pursuant to section 903 of the social security act, as amended;

(vii) All money received from the federal government as reimbursement pursuant to section 204 of the federal-state extended compensation act of 1970 (84 Stat. 708-712; 26 U.S.C. Sec. 3304); and

(viii) All moneys received for the fund from any other source.

(b) All moneys in the unemployment compensation fund shall be commingled and undivided.

(3)(a) Except as provided in (b) of this subsection, the administrative contingency fund shall consist of:

(i) All interest on delinquent contributions collected pursuant to this title;

(ii) All fines and penalties collected pursuant to the provisions of this title;

(iii) All sums recovered on official bonds for losses sustained by the fund; and

(iv) Revenue received under RCW 50.24.014.

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(b) All fees, fines, forfeitures, and penalties collected or assessed by a district court because of the violation of this title or rules adopted under this title shall be remitted as provided in chapter 3.62 RCW.

(c) During the 2007-2009 biennium, moneys available in the administrative contingency fund, other than money in the special account created under RCW 50.24.014(1)(a), shall be expended as appropriated by the legislature for the (i) cost of the job skills or worker retraining programs at the community and technical colleges and administrative costs at the state board for community and technical colleges, and (ii) reemployment services such as business and project development assistance, local economic development capacity building, and local economic development financial assistance at the department of community, trade, and economic development, and the remaining appropriation upon the direction of the commissioner, with the approval of the governor, whenever it appears to him or her that such expenditure is necessary solely for:

(i) The proper administration of this title and that insufficient federal funds are available for the specific purpose to which such expenditure is to be made, provided, the moneys are not substituted for appropriations from federal funds which, in the absence of such moneys, would be made available.

(ii) The proper administration of this title for which purpose appropriations from federal funds have been requested but not yet received, provided, the administrative contingency fund will be reimbursed upon receipt of the requested federal appropriation.

(iii) The proper administration of this title for which compliance and audit issues have been identified that establish federal claims requiring the expenditure of state resources in resolution. Claims must be resolved in the following priority: First priority is to provide services to eligible participants within the state; second priority is to provide substitute services or program support; and last priority is the direct payment of funds to the federal government.

(d) For fiscal year 2010, moneys available in the administrative contingency fund, other than money in the special account created under RCW 50.24.014(1)(a), shall be expended as appropriated by the legislature to serve individuals who are eligible for or have exhausted entitlement to unemployment compensation benefits and are enrolled in a high employer demand program of study or a forest product industry training program pursuant to section 2 of this act, and the remaining appropriation upon the direction of the commissioner, with the approval of the governor, whenever it appears to the commissioner that such expenditure is necessary solely for:

(i) The proper administration of this title and that insufficient federal funds are available for the specific purpose to which such expenditure is to be made, if the moneys are not substituted for appropriations from federal funds which, in the absence of such moneys, would be made available;

(ii) The proper administration of this title for which purpose appropriations from federal funds have been requested but not yet received, if the administrative contingency fund will be reimbursed upon receipt of the requested federal appropriation; and

(iii) The proper administration of this title for which compliance and audit issues have been identified that establish federal claims requiring the expenditure of state resources in resolution. Claims must be resolved in the following priority: First priority is to provide services to eligible participants within the state; second priority is to provide substitute services or program support; and last priority is the direct payment of funds to the federal government.

Money in the special account created under RCW 50.24.014(1)(a) may only be expended, after appropriation, for the purposes specified in this section and RCW 50.62.010, 50.62.020, 50.62.030, 50.24.014, 50.44.053, and 50.22.010.

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NEW SECTION. Sec. 2. A new section is added to chapter 28B.50 RCW to read as follows:

(1) Subject to availability of funds, high employer demand training funds are available for use by the state board for community and technical colleges to serve individuals who are eligible for or have exhausted entitlement to unemployment compensation benefits and are enrolled in a high employer demand program of study or a forest product industry training program. Preference must be given to individuals enrolled in the forest product industry, health care, energy efficiency, and aerospace worker training programs.

(2) Funds may be used for the following purposes for individuals eligible under subsection (1) of this section: Expenses related to educational and career counseling services, training plan development, and referral to appropriate training programs in high-demand occupations; increased capacity at community and technical colleges to make training programs in high-demand occupations available; financial aid for eligible students enrolled at an institution of higher education as defined in RCW 28B.10.016 or an educational institution as defined in RCW 28C.04.410; and job development and referral services.

(3) After the first year of the program, if funds are not fully expended, the state board for community and technical colleges may broaden individual eligibility criteria.

(4) Funds available under this section cannot be used to replace or supplant any existing enrollments, programs, support services, or funding sources.

NEW SECTION. Sec. 3. A new section is added to chapter 50.22 RCW to read as follows:

Consistent with the intent of the workforce investment act of 1998, P.L. 105-220, administrative funds made available under the act shall be used to serve individuals who are eligible for or have exhausted entitlement to unemployment compensation benefits and are enrolled in a high employer demand program of study or a forest product industry training program pursuant to section 2 of this act.

NEW SECTION. Sec. 4. A new section is added to chapter 50.22 RCW to read as follows:

The employment security department shall encourage an increase in education and training through grants and local plan modifications with workforce development councils. Consistent with the intent of the workforce investment act, adult and dislocated worker program provisions in the American recovery and reinvestment act of 2009, the employment security department shall require workforce development councils to determine the number of participants who will receive education and training. The employment security department shall encourage workforce development councils to:

(1) Increase the number of workforce investment act adult and dislocated worker participants receiving education and training to obtain employment in high-demand occupations as defined in RCW 50.22.--- (section 4, chapter 3, Laws of 2009), through institutions of higher education as defined in RCW 28B.10.016, or educational institutions as defined in RCW 28C.04.410; and

(2) Use workforce investment act resources for the following education and training purposes: The provision of individual training accounts that provide student financial aid; to increase the number of individuals receiving training benefits; and to enter into contracts with institutions of higher education to increase capacity for training low-income individuals for high-demand occupations and dislocated workers for high-demand occupations.

NEW SECTION. Sec. 5. The employment security department, in collaboration with the workforce training and education coordinating board, workforce development councils, and state board for community and technical colleges, shall submit reports as follows to the appropriate committees of the legislature related to the American recovery and reinvestment

act of 2009 workforce investment act adult and dislocated worker programs:

(1) A preliminary report by December 1, 2009, that includes expenditures on education and training, the number of students receiving training, the types of training received by the students, student demographics, and institution/program demographics;

(2) A preliminary report by December 1, 2010, that includes the innovations in training including new training capacity, new classes, and alternative training times and locations; and

(3) A final report by December 1, 2011, that includes expenditures on education and training, the number of certified full-time equivalent students receiving training, the types of training received by the students, student demographics, training completion rates, employment rates, and comparisons of preprogram and postprogram wage levels.

NEW SECTION. Sec. 6. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove, Holmquist and Kohl-Welles to Second Substitute Senate Bill No. 5809.

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

MOTION

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

On page 1, line 1 of the title, after "training;" strike the remainder of the title and insert "amending RCW 50.16.010; adding a new section to chapter 28B.50 RCW; adding new sections to chapter 50.22 RCW; creating a new section; and declaring an emergency."

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5809 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove, Holmquist, Kohl-Welles, Kilmer, Kastama and Brown spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5809.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5809 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, 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

Voting nay: Senator Jarrett

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5809, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

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SECOND READING

SENATE BILL NO. 5963, by Senators Kohl-Welles, Holmquist, King, Honeyford, Keiser, Franklin, Kline, Hewitt, Marr, Parlette, McCaslin, Schoesler and Morton

Regarding unemployment insurance.

MOTION

On motion of Senator Marr, Substitute Senate Bill No. 5963 was substituted for Senate Bill No. 5963 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Kohl-Welles moved that the following amendment by Senators Kohl-Welles and Keiser be adopted.

On page 17, line 28, strike all of Section 3 and insert the following:

"Sec. 3. RCW 50.20.050 and 2008 c 323 s 1 are each amended to read as follows:

(1) ~~((With respect to claims that have an effective date before January 4, 2004:~~

~~—(a) An individual shall be disqualified from benefits beginning with the first day of the calendar week in which he or she has left work voluntarily without good cause and thereafter for seven calendar weeks and until he or she has obtained bona fide work in employment covered by this title and earned wages in that employment equal to seven times his or her weekly benefit amount.~~

~~—The disqualification shall continue if the work obtained is a mere sham to qualify for benefits and is not bona fide work. In determining whether work is of a bona fide nature, the commissioner shall consider factors including but not limited to the following:~~

~~—(i) The duration of the work;~~

~~—(ii) The extent of direction and control by the employer over the work; and~~

~~—(iii) The level of skill required for the work in light of the individual's training and experience.~~

~~—(b) An individual shall not be considered to have left work voluntarily without good cause when:~~

~~—(i) He or she has left work to accept a bona fide offer of bona fide work as described in (a) of this subsection;~~

~~—(ii) The separation was because of the illness or disability of the claimant or the death, illness, or disability of a member of the claimant's immediate family if the claimant took all reasonable precautions, in accordance with any regulations that the commissioner may prescribe, to protect his or her employment status by having promptly notified the employer of the reason for the absence and by having promptly requested reemployment when again able to assume employment: PROVIDED, That these precautions need not have been taken when they would have been a futile act, including those instances when the futility of the act was a result of a recognized labor/management dispatch system;~~

~~—(iii) He or she has left work to relocate for the spouse's employment that is due to an employer-initiated mandatory transfer that is outside the existing labor market area if the claimant remained employed as long as was reasonable prior to the move; or~~

~~—(iv) The separation was necessary to protect the claimant or the claimant's immediate family members from domestic violence, as defined in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110.~~

~~—(c) In determining under this subsection whether an individual has left work voluntarily without good cause, the~~

~~commissioner shall only consider work-connected factors such as the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness for the work, the individual's ability to perform the work, and such other work connected factors as the commissioner may deem pertinent, including state and national emergencies. Good cause shall not be established for voluntarily leaving work because of its distance from an individual's residence where the distance was known to the individual at the time he or she accepted the employment and where, in the judgment of the department, the distance is customarily traveled by workers in the individual's job classification and labor market, nor because of any other significant work factor which was generally known and present at the time he or she accepted employment, unless the related circumstances have so changed as to amount to a substantial involuntary deterioration of the work factor or unless the commissioner determines that other related circumstances would work an unreasonable hardship on the individual were he or she required to continue in the employment.~~

~~—(d) Subsection (1)(a) and (c) of this section shall not apply to an individual whose marital status or domestic responsibilities cause him or her to leave employment. Such an individual shall not be eligible for unemployment insurance benefits beginning with the first day of the calendar week in which he or she left work and thereafter for seven calendar weeks and until he or she has requalified, either by obtaining bona fide work in employment covered by this title and earning wages in that employment equal to seven times his or her weekly benefit amount or by reporting in person to the department during ten different calendar weeks and certifying on each occasion that he or she is ready, able, and willing to immediately accept any suitable work which may be offered, is actively seeking work pursuant to customary trade practices, and is utilizing such employment counseling and placement services as are available through the department. This subsection does not apply to individuals covered by (b)(ii) or (iii) of this subsection.~~

~~—(2) With respect to claims that have an effective date on or after January 4, 2004 and for separations that occur before September 6, 2009:~~

~~(a) An individual shall be disqualified from benefits beginning with the first day of the calendar week in which he or she has left work voluntarily without good cause and thereafter for seven calendar weeks and until he or she has obtained bona fide work in employment covered by this title and earned wages in that employment equal to seven times his or her weekly benefit amount.~~

~~The disqualification shall continue if the work obtained is a mere sham to qualify for benefits and is not bona fide work. In determining whether work is of a bona fide nature, the commissioner shall consider factors including but not limited to the following:~~

~~(i) The duration of the work;~~

~~(ii) The extent of direction and control by the employer over the work; and~~

~~(iii) The level of skill required for the work in light of the individual's training and experience.~~

~~(b) An individual is not disqualified from benefits under (a) of this subsection when:~~

~~(i) He or she has left work to accept a bona fide offer of bona fide work as described in (a) of this subsection;~~

~~(ii) The separation was necessary because of the illness or disability of the claimant or the death, illness, or disability of a member of the claimant's immediate family if:~~

~~(A) The claimant pursued all reasonable alternatives to preserve his or her employment status by requesting a leave of absence, by having promptly notified the employer of the reason for the absence, and by having promptly requested reemployment when again able to assume employment. These alternatives need not be pursued, however, when they would~~

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have been a futile act, including those instances when the futility of the act was a result of a recognized labor/management dispatch system; and

(B) The claimant terminated his or her employment status, and is not entitled to be reinstated to the same position or a comparable or similar position;

(iii)(A) With respect to claims that have an effective date before July 2, 2006, he or she: (I) Left work to relocate for the spouse's employment that, due to a mandatory military transfer: (1) Is outside the existing labor market area; and (2) is in Washington or another state that, pursuant to statute, does not consider such an individual to have left work voluntarily without good cause; and (II) remained employed as long as was reasonable prior to the move;

(B) With respect to claims that have an effective date on or after July 2, 2006, he or she: (I) Left work to relocate for the spouse's employment that, due to a mandatory military transfer, is outside the existing labor market area; and (II) remained employed as long as was reasonable prior to the move;

(iv) The separation was necessary to protect the claimant or the claimant's immediate family members from domestic violence, as defined in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;

(v) The individual's usual compensation was reduced by twenty-five percent or more;

(vi) The individual's usual hours were reduced by twenty-five percent or more;

(vii) The individual's worksite changed, such change caused a material increase in distance or difficulty of travel, and, after the change, the commute was greater than is customary for workers in the individual's job classification and labor market;

(viii) The individual's worksite safety deteriorated, the individual reported such safety deterioration to the employer, and the employer failed to correct the hazards within a reasonable period of time;

(ix) The individual left work because of illegal activities in the individual's worksite, the individual reported such activities to the employer, and the employer failed to end such activities within a reasonable period of time;

(x) The individual's usual work was changed to work that violates the individual's religious convictions or sincere moral beliefs; or

(xi) The individual left work to enter an apprenticeship program approved by the Washington state apprenticeship training council. Benefits are payable beginning Sunday of the week prior to the week in which the individual begins active participation in the apprenticeship program.

(2) With respect to separations that occur on or after September 6, 2009:

(a) An individual shall be disqualified from benefits beginning with the first day of the calendar week in which he or she has left work voluntarily without good cause and thereafter for seven calendar weeks and until he or she has obtained bona fide work in employment covered by this title and earned wages in that employment equal to seven times his or her weekly benefit amount.

The disqualification shall continue if the work obtained is a mere sham to qualify for benefits and is not bona fide work. In determining whether work is of a bona fide nature, the commissioner shall consider factors including but not limited to the following:

(i) The duration of the work;

(ii) The extent of direction and control by the employer over the work; and

(iii) The level of skill required for the work in light of the individual's training and experience.

(b) An individual is not disqualified from benefits under (a) of this subsection only under the following circumstances:

(i) He or she has left work to accept a bona fide offer of

bona fide work as described in (a) of this subsection;

(ii) The separation was necessary because of the illness or disability of the claimant or the death, illness, or disability of a member of the claimant's immediate family if:

(A) The claimant pursued all reasonable alternatives to preserve his or her employment status by requesting a leave of absence, by having promptly notified the employer of the reason for the absence, and by having promptly requested reemployment when again able to assume employment. These alternatives need not be pursued, however, when they would have been a futile act, including those instances when the futility of the act was a result of a recognized labor/management dispatch system; and

(B) The claimant terminated his or her employment status, and is not entitled to be reinstated to the same position or a comparable or similar position;

(iii) The claimant: (A) Left work to relocate for the employment of a spouse or domestic partner that is outside the existing labor market area; and (B) remained employed as long as was reasonable prior to the move;

(iv) The separation was necessary to protect the claimant or the claimant's immediate family members from domestic violence, as defined in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;

(v) The individual's usual compensation was reduced by twenty-five percent or more;

(vi) The individual's usual hours were reduced by twenty-five percent or more;

(vii) The individual's worksite changed, such change caused a material increase in distance or difficulty of travel, and, after the change, the commute was greater than is customary for workers in the individual's job classification and labor market;

(viii) The individual's worksite safety deteriorated, the individual reported such safety deterioration to the employer, and the employer failed to correct the hazards within a reasonable period of time;

(ix) The individual left work because of illegal activities in the individual's worksite, the individual reported such activities to the employer, and the employer failed to end such activities within a reasonable period of time;

(x) The individual's usual work was changed to work that violates the individual's religious convictions or sincere moral beliefs; or

(xi) The individual left work to enter an apprenticeship program approved by the Washington state apprenticeship training council. Benefits are payable beginning Sunday of the week prior to the week in which the individual begins active participation in the apprenticeship program.

(c) The department may determine that other work-connected circumstances may constitute good cause if the individual can show that continuing in the employment would work an unreasonable hardship on the individual. "Unreasonable hardship" means a result not due to the individual's voluntary action that would cause a reasonable person to leave that employment. The circumstances must be based on existing facts, not conjecture, and the reasons for leaving work must be significant. An individual seeking to demonstrate unreasonable hardship must show:

(i) The individual left work primarily for reasons connected with their employment;

(ii) The work connected reasons were of such a compelling nature they would have caused a reasonably prudent person to leave work; and

(iii) The individual first exhausted all reasonable alternatives before leaving work, or that pursuing reasonable alternatives would have been futile."

Renumber the sections consecutively and correct any internal references accordingly.

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

WITHDRAWAL OF AMENDMENT

On motion of Senator Kohl-Welles, the amendment by Senators Kohl-Welles and Keiser on page 17, line 28 to Substitute Senate Bill No. 5963 was withdrawn.

MOTION

Senator Keiser moved that the following amendment by Senators Keiser, Kohl-Welles, Kline and Franklin be adopted.

On page 23, after line 23, insert the following:

"Sec. 4. RCW 50.20.120 and 2009 c 3 s 3 are each amended to read as follows:

Except as provided in RCW 50.20.--- (section 2, chapter 3, Laws of 2009), benefits shall be payable as provided in this section.

(1) For claims with an effective date on or after April 4, 2004, benefits shall be payable to any eligible individual during the individual's benefit year in a maximum amount equal to the lesser of twenty-six times the weekly benefit amount, as determined in subsection (2) of this section, or one-third of the individual's base year wages under this title.

(2)(a) For claims with an effective date on or after April 24, 2005, an individual's weekly benefit amount shall be an amount equal to three and eighty-five one-hundredths percent of the average quarterly wages of the individual's total wages during the two quarters of the individual's base year in which such total wages were highest.

(b) With respect to separations that occur on or after January 3, 2010, an individual's weekly benefit amount shall be an amount equal to four percent of the average quarterly wages of the individual's total wages during the two quarters of the individual's base year in which such total wages were highest.

(3) The maximum and minimum amounts payable weekly shall be determined as of each June 30th to apply to benefit years beginning in the twelve-month period immediately following such June 30th.

(a) The maximum amount payable weekly shall be either four hundred ninety-six dollars or sixty-three percent of the "average weekly wage" for the calendar year preceding such June 30th, whichever is greater.

(b) The minimum amount payable weekly shall be fifteen percent of the "average weekly wage" for the calendar year preceding such June 30th.

(4) If any weekly benefit, maximum benefit, or minimum benefit amount computed herein is not a multiple of one dollar, it shall be reduced to the next lower multiple of one dollar."

Renumber the remaining sections consecutively.

On page 1, line 2 of the title, after "50.29.025," strike "and 50.20.050" and insert "50.20.050, and 50.20.120"

Senator Keiser spoke in favor of adoption of the amendment.

WITHDRAWAL OF AMENDMENT

On motion of Senator Keiser, the amendment by Senators Keiser, Kohl-Welles, Kline and Franklin on page 23, line after 23 to Substitute Senate Bill No. 5963 was withdrawn.

MOTION

On motion of Senator Marr, the rules were suspended, Substitute Senate Bill No. 5963 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Marr and Holmquist spoke in favor of passage of the bill.

Senators Keiser and Kohl-Welles spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5963.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5963 and the bill passed the Senate by the following vote: Yeas, 38; Nays, 11; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kilmer, King, Marr, McAuliffe, McCaslin, Morton, Murray, Parlette, Pflug, Prentice, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Fairley, Franklin, Fraser, Kauffman, Keiser, Kline, Kohl-Welles, McDermott, Oemig, Pridemore and Ranker

SUBSTITUTE SENATE BILL NO. 5963, 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 Kastama, Substitute Senate Bill No. 5453 was not substituted for Senate Bill No. 5453 and the substitute bill was not adopted.

SECOND READING

SENATE BILL NO. 5453, by Senators Kastama and Franklin

Defining "principal residence" for the purpose of relocation of a child.

The measure was read the second time.

MOTION

On motion of Senator Hargrove, the rules were suspended, Senate Bill No. 5453 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5453.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5453 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Benton, Berkey, 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

SENATE BILL NO. 5453, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5513, by Senators Jarrett, Swecker, Delvin, Marr, Kilmer and Tom

Concerning law enforcement authority that relates to civil infractions and unlawful transit conduct.

MOTION

On motion of Senator Jarrett, Substitute Senate Bill No. 5513 was substituted for Senate Bill No. 5513 and the substitute bill was placed on the second reading and read the second time.

MOTION

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

On page 1, after line 15, insert the following:

"Sec. 2. RCW 7.80.010 and 1987 c 456 s 9 are each amended to read as follows:

(1) All violations of state law, local law, ordinance, regulation, or resolution designated as civil infractions may be heard and determined by a district court, except as otherwise provided in this section.

(2) Any municipal court has the authority to hear and determine pursuant to this chapter civil infractions that are established by municipal ordinance or by local law or resolution of a transit agency authorized to issue civil infractions, and that are committed within the jurisdiction of the municipality.

(3) Any city or town with a municipal court under chapter 3.50 RCW may contract with the county to have civil infractions that are established by city or town ordinance and that are committed within the city or town adjudicated by a district court.

(4) District court commissioners have the authority to hear and determine civil infractions pursuant to this chapter.

(5) Nothing in this chapter prevents any city, town, or county from hearing and determining civil infractions pursuant to its own system established by ordinance."

Renumber the sections consecutively and correct any internal references accordingly.

Senator Jarrett 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 Jarrett on page 1, after line 15 to Substitute Senate Bill No. 5513.

The motion by Senator Jarrett carried and the 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 "RCW", insert "7.80.010,"

MOTION

On motion of Senator Jarrett, the rules were suspended, Engrossed Substitute Senate Bill No. 5513 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 Marr, Senator Hargrove was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5513.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5513 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, 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 Hargrove

ENGROSSED SUBSTITUTE SENATE BILL NO. 5513, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5682, by Senators Haugen and Marr

Requiring the secretary of transportation to realign the transportation regions.

MOTION

On motion of Senator Haugen, Substitute Senate Bill No. 5682 was substituted for Senate Bill No. 5682 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Haugen moved that the following amendment by Senators Haugen and Swecker be adopted.

On page 1, line 11, after "regional" strike all material through "July 1, 2011" on line 12 and insert the following:

"management level staff by at least five percent by July 1, 2011"

Senator Haugen spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Haugen and Swecker on page 1, line 11 to Substitute Senate Bill No. 5682.

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

MOTION

On motion of Senator Haugen, the rules were suspended, Engrossed Substitute Senate Bill No. 5682 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senator Parlette spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5682.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5682 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 7; Absent, 0;

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Excused, 0.

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

Voting nay: Senators Benton, Hewitt, Holmquist, Parlette, Pflug, Schoesler and Stevens

ENGROSSED SUBSTITUTE SENATE BILL NO. 5682, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5684, by Senators Haugen, Swecker, Ranker, Hatfield, Jarrett and Kline

Addressing environmental mitigation in highway construction.

MOTIONS

On motion of Senator Haugen, Substitute Senate Bill No. 5684 was substituted for Senate Bill No. 5684 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Haugen, the rules were suspended, Substitute Senate Bill No. 5684 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen 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 Senate Bill No. 5684.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5684 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Benton, Berkey, 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

SUBSTITUTE SENATE BILL NO. 5684, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5691, by Senators Brandland, Jacobsen, Shin and Parlette

Increasing boating safety. Revised for 2nd Substitute: Improving boating programs.

MOTIONS

On motion of Senator Jacobsen, Second Substitute Senate Bill No. 5691 was substituted for Senate Bill No. 5691 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Jacobsen, the rules were suspended, Second Substitute Senate Bill No. 5691 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Brandland spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5691.

ROLL CALL

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

Voting yea: Senators Becker, Benton, Berkey, 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

SECOND SUBSTITUTE SENATE BILL NO. 5691, 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 Haugen, Substitute Senate Bill No. 5894 was not substituted for Senate Bill No. 5894 and the substitute bill was not adopted.

SECOND READING

SENATE BILL NO. 5894, by Senators Haugen and Parlette

Authorizing the utilities and transportation commission to forbear from rate and service regulation of certain transportation services.

The measure was read the second time.

MOTION

Senator Haugen moved that the following striking amendment by Senators Haugen and Parlette be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 81.68.015 and 2007 c 234 s 47 are each amended to read as follows:

This chapter does not apply to corporations or persons, their lessees, trustees, receivers, or trustees appointed by any court whatsoever insofar as they own, control, operate, or manage taxicabs, hotel buses, school buses, or any other carrier that does not come within the term "auto transportation company" as defined in RCW 81.68.010.

This chapter does not apply to persons operating motor vehicles when operated wholly within the limits of incorporated cities or towns, and for a distance not exceeding three road miles beyond the corporate limits of the city or town in Washington in which the original starting point of the vehicle is located, and which operation either alone or in conjunction with another vehicle or vehicles is not a part of any journey beyond the three-mile limit.

This chapter does not apply to commuter ride sharing or ride sharing for persons with special transportation needs in accordance with RCW 46.74.010, so long as the ride-sharing operation does not compete with or infringe upon comparable service actually being provided before the initiation of the ride-

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sharing operation by an existing auto transportation company certificated under this chapter.

This chapter does not apply to a service carrying passengers for compensation over any public highway in this state between fixed termini or over a regular route if the commission finds, with or without a hearing, that the service does not serve an essential transportation purpose, is solely for recreation, and would not adversely affect the operations of the holder of a certificate under this chapter, and that exemption from this chapter is otherwise in the public interest. Companies providing these services must, however, obtain a permit under chapter 81.70 RCW.

This chapter does not apply to a service carrying passengers for compensation over any public highway in this state between fixed termini or over a regular route if the commission finds, with or without a hearing, that the service is provided pursuant to a contract with a state agency, or funded by a grant issued by the department of transportation, and that exemption from this chapter is otherwise in the public interest. Companies providing these services must, however, obtain a permit under chapter 81.70 RCW.

Sec. 2. RCW 81.84.010 and 2007 c 234 s 92 are each amended to read as follows:

(1) A commercial ferry may not operate any vessel or ferry for the public use for hire between fixed termini or over a regular route upon the waters within this state, including the rivers and lakes and Puget Sound, without first applying for and obtaining from the commission a certificate declaring that public convenience and necessity require such operation. Service authorized by certificates issued ~~((before or after July 25, 1993;))~~ to a commercial ferry operator must be exercised by the operator in a manner consistent with the conditions established in the certificate ~~((or))~~ and tariff~~((s))~~ filed under chapter 81.28 RCW. However, a certificate is not required for a vessel primarily engaged in transporting freight other than vehicles, whose gross earnings from the transportation of passengers vehicles, or both, are not more than ten percent of the total gross annual earnings of such vessel.

(2) If the commission finds, with or without a hearing, that an existing or a proposed commercial ferry service does not serve an essential transportation purpose and is solely for recreation, the commission may, by order, exempt that service from the requirements of certification and regulation under this chapter. If the nonessential service is a proposed service not already provided by an existing certificate holder, the commission must also find, after notice to any existing certificate holder operating within the same territory and an opportunity to be heard, that the proposed service would not adversely affect the rates or services of any existing certificate holder.

(3) This section does not affect the right of any county public transportation benefit area or other public agency within this state to construct, condemn, purchase, operate, or maintain, itself or by contract, agreement, or lease, with any person, firm, or corporation, ferries or boats across the waters within this state, including rivers and lakes and Puget Sound, if the operation is not over the same route or between the same districts being served by a certificate holder without first acquiring the rights granted to the certificate holder under the certificate.

~~((2))~~ (4) The holder of a certificate of public convenience and necessity granted under this chapter must initiate service within five years of obtaining the certificate, except that the holder of a certificate of public convenience and necessity for passenger-only ferry service in Puget Sound must initiate service within twenty months of obtaining the certificate. The certificate holder shall report to the commission every six months after the certificate is granted on the progress of the certificated route. The reports shall include, but not be limited to, the progress of environmental impact, parking, local

government land use, docking, and financing considerations. Except in the case of passenger-only ferry service in Puget Sound, if service has not been initiated within five years of obtaining the certificate, the commission may extend the certificate on a twelve-month basis for up to three years if the six-month progress reports indicate there is significant advancement toward initiating service.

Sec. 3. RCW 81.66.010 and 1996 c 244 s 1 are each amended to read as follows:

The definitions set forth in this section shall apply throughout this chapter, unless the context clearly indicates otherwise.

(1) "Corporation" means a corporation, company, association, or joint stock association.

(2) "Person" means an individual, firm, or a copartnership.

(3) "Private, nonprofit transportation provider" means any private, nonprofit corporation providing transportation services for compensation solely to persons with special transportation needs, or pursuant to a contract with a state agency or funded by a grant issued by the department of transportation.

(4) "Persons with special transportation needs" means those persons, including their personal attendants, who because of physical or mental disability, income status, or age are unable to transport themselves or to purchase appropriate transportation.

Sec. 4. RCW 81.70.220 and 1989 c 163 s 7 are each amended to read as follows:

(1) No person may engage in the business of a charter party carrier or excursion service carrier of persons over any public highway without first having obtained a certificate from the commission to do so or having registered as an interstate carrier.

(2) An auto transportation company carrying passengers for compensation over any public highway in this state between fixed termini or over a regular route that is not required to hold an auto transportation certificate because of a commission finding under RCW 81.68.015 must obtain a certificate under this chapter.

Sec. 5. RCW 46.74.010 and 1997 c 250 s 8 and 1997 c 95 s 1 are each reenacted and amended to read as follows:

The definitions set forth in this section shall apply throughout this chapter, unless the context clearly indicates otherwise.

(1) "Commuter ride sharing" means a car pool or van pool arrangement whereby one or more fixed groups not exceeding fifteen persons each including the drivers, and (a) not fewer than five persons including the drivers, or (b) not fewer than four persons including the drivers where at least two of those persons are confined to wheelchairs when riding, are transported in a passenger motor vehicle with a gross vehicle weight not exceeding ten thousand pounds, excluding special rider equipment, between their places of abode or termini near such places, and their places of employment or educational or other institutions, each group in a single daily round trip where the drivers are also on the way to or from their places of employment or educational or other institution.

(2) "Flexible commuter ride sharing" means a car pool or van pool arrangement whereby a group of at least two but not exceeding fifteen persons including the driver is transported in a passenger motor vehicle with a gross vehicle weight not exceeding ten thousand pounds, excluding special rider equipment, between their places of abode or termini near such places, and their places of employment or educational or other institutions, where the driver is also on the way to or from his or her place of employment or educational or other institution.

(3) "Ride sharing for persons with special transportation needs" means an arrangement whereby a group of persons with special transportation needs, and their attendants, is transported by a public social service agency or a private, nonprofit transportation provider, as defined in RCW 81.66.010(3), serving persons with special needs, in a passenger motor vehicle

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as defined by the department to include small buses, cutaways, and modified vans not more than twenty-eight feet long; PROVIDED, That the driver need not be a person with special transportation needs.

(4) "Ride-sharing operator" means the person, entity, or concern, not necessarily the driver, responsible for the existence and continuance of commuter ride sharing, flexible commuter ride sharing, or ride sharing for persons with special transportation needs. The term "ride-sharing operator" includes but is not limited to an employer, an employer's agent, an employer-organized association, a state agency, a county, a city, a public transportation benefit area, or any other political subdivision that owns or leases a ride-sharing vehicle.

(5) "Ride-sharing promotional activities" means those activities involved in forming a commuter ride-sharing arrangement or a flexible commuter ride-sharing arrangement, including but not limited to receiving information from existing and prospective ride-sharing participants, sharing that information with other existing and prospective ride-sharing participants, matching those persons with other existing or prospective ride-sharing participants, and making assignments of persons to ride-sharing arrangements.

(6) "Persons with special transportation needs" means those persons defined in RCW 81.66.010(4).

NEW SECTION. Sec. 6. (1) Within its existing resources, the utilities and transportation commission shall study the appropriateness of rate and service regulation of commercial ferries operating on Lake Chelan. The commission shall report its findings and recommendations to the legislature by December 31, 2009.

(2) This section expires December 31, 2009."

Senators Haugen and Parlette spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Haugen and Parlette to Senate Bill No. 5894.

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

MOTION

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

On page 1, line 3 of the title, after "services;" strike the remainder of the title and insert "amending RCW 81.68.015, 81.84.010, 81.66.010, and 81.70.220; reenacting and amending RCW 46.74.010; creating a new section; and providing an expiration date."

MOTION

On motion of Senator Haugen, the rules were suspended, Engrossed Senate Bill No. 5894 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Haugen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5894.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5894 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 3; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, 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, Swecker, Tom and Zarelli

Voting nay: Senators Becker, Holmquist and Stevens

ENGROSSED SENATE BILL NO. 5894, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6052, by Senator Pflug

Requiring health benefit plans to offer coverage for surgical treatment of morbid obesity. Revised for 1st Substitute: Addressing health benefit plans offering coverage for surgical treatment of morbid obesity.

MOTIONS

On motion of Senator Pflug, Substitute Senate Bill No. 6052 was substituted for Senate Bill No. 6052 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Pflug, the rules were suspended, Substitute Senate Bill No. 6052 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6052.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6052 and the bill passed the Senate by the following vote: Yeas, 36; Nays, 13; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, McCaslin, McDermott, Murray, Oemig, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin and Swecker

Voting nay: Senators Benton, Carrell, Hewitt, Holmquist, Honeyford, Marr, Morton, Parlette, Roach, Schoesler, Stevens, Tom and Zarelli

SUBSTITUTE SENATE BILL NO. 6052, 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 9:30 p.m., on motion of Senator Eide, the Senate adjourned until 9:30 a.m. Thursday, March 12, 2009.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

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1009-S2		1579	
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1021-S2		1597-S	
Introduction & 1st Reading.	1	Messages.	1
1078-S2		1621-S	
Introduction & 1st Reading.	1	Introduction & 1st Reading.	3
1081-S2		1669-S	
Introduction & 1st Reading.	1	Introduction & 1st Reading.	3
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