

EIGHTY EIGHTH DAY

MORNING SESSION

Senate Chamber, Olympia, Thursday, April 7, 2011

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

The Sergeant at Arms Color Guard consisting of Pages Trevor Nesbitt and Benjamin Swartz, presented the Colors. Pastor Dwain Wolfe of New Horizon Christian Center of Fife offered the prayer.

MOTION

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

MOTION

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

MESSAGE FROM THE HOUSE

April 6, 2011

MR. PRESIDENT:
The House has passed:

- SUBSTITUTE SENATE BILL NO. 5018,
- SENATE BILL NO. 5045,
- SUBSTITUTE SENATE BILL NO. 5070,
- SENATE BILL NO. 5076,
- SUBSTITUTE SENATE BILL NO. 5300,
- SUBSTITUTE SENATE BILL NO. 5374,
- SENATE BILL NO. 5395.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 6, 2011

MR. PRESIDENT:
The House has passed:

- SENATE BILL NO. 5241,
- SUBSTITUTE SENATE BILL NO. 5352,
- SUBSTITUTE SENATE BILL 5442,
- SENATE BILL NO. 5482,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5555,
- SUBSTITUTE SENATE BILL NO. 5788,
- SENATE BILL NO. 5849.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 6, 2011

MR. PRESIDENT:
The Speaker has signed:

- SENATE BILL NO. 5057,

ENGROSSED SENATE BILL NO. 5058,
 SUBSTITUTE SENATE BILL NO. 5071,
 SUBSTITUTE SENATE BILL NO. 5115,
 SENATE BILL NO. 5116,
 SENATE BILL NO. 5149,
 SUBSTITUTE SENATE BILL NO. 5152,
 SENATE BILL NO. 5170,
 SENATE BILL NO. 5174,
 SUBSTITUTE SENATE BILL NO. 5184,
 SENATE BILL NO. 5213,
 SENATE BILL NO. 5224,
 ENGROSSED SENATE BILL NO. 5242,
 SENATE BILL NO. 5295,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5307.
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 6, 2011

MR. PRESIDENT:
 The Speaker has signed:
 SUBSTITUTE SENATE BILL NO. 5195.
 and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 6, 2011

MR. PRESIDENT:
 The Speaker has signed:
 SUBSTITUTE SENATE BILL NO. 5337,
 SENATE BILL NO. 5375,
 SENATE BILL NO. 5388,
 SENATE BILL NO. 5492,
 SUBSTITUTE SENATE BILL NO. 5495,
 SENATE BILL NO. 5501,
 SUBSTITUTE SENATE BILL NO. 5538,
 SUBSTITUTE SENATE BILL NO. 5574,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5594.
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 6, 2011

MR. PRESIDENT:
 The Speaker has signed:
 HOUSE BILL NO. 1012,
 SUBSTITUTE HOUSE BILL NO. 1048,
 SUBSTITUTE HOUSE BILL NO. 1105,
 HOUSE BILL NO. 1181,
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1206,
 HOUSE BILL NO. 1215,
 HOUSE BILL NO. 1263,
 HOUSE BILL NO. 1303,
 HOUSE BILL NO. 1353,

SECOND SUBSTITUTE HOUSE BILL NO. 1362,
HOUSE BILL NO. 1391,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1489,
SUBSTITUTE HOUSE BILL NO. 1575,
SUBSTITUTE HOUSE BILL NO. 1585,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 6, 2011

MR. PRESIDENT:

The Speaker has signed:

SUBSTITUTE HOUSE BILL NO. 1172,
HOUSE BILL NO. 1179,
HOUSE BILL NO. 1227,
SUBSTITUTE HOUSE BILL NO. 1243,
SUBSTITUTE HOUSE BILL NO. 1304,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1492,
SECOND SUBSTITUTE HOUSE BILL NO. 1519,
HOUSE BILL NO. 1625,
HOUSE BILL NO. 1709,
SUBSTITUTE HOUSE BILL NO. 1719,
SECOND SUBSTITUTE HOUSE BILL NO. 1803,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1808,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1826,
HOUSE BILL NO. 1937,
HOUSE BILL NO. 1939,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING

SB 5921 by Senators Regala and Carrell

AN ACT Relating to social services; amending RCW 74.08A.260, 74.08A.290, 74.08A.010, 74.20.040, 74.20.330, 43.215.135, 74.08.580, 66.16.041, 9.46.410, 74.04.012, 43.20A.605, and 49.60.210; adding a new section to chapter 74.12 RCW; adding a new section to chapter 74.08A RCW; adding a new section to chapter 43.215 RCW; adding a new section to chapter 66.24 RCW; adding a new section to chapter 18.300 RCW; adding a new section to chapter 18.185 RCW; adding new sections to chapter 74.04 RCW; adding a new section to chapter 43.09 RCW; adding a new section to chapter 43.20A RCW; creating new sections; prescribing penalties; providing an effective date; providing an expiration date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5922 by Senators Chase, Conway, Nelson, Kline, Harper, Keiser and Kohl-Welles

AN ACT Relating to taxpayer accountability by requiring a net benefit to the state in order to claim the benefit of a tax expenditure; and amending RCW 82.32.585 and 82.32.534.

Referred to Committee on Ways & Means.

SB 5923 by Senators Chase, Kline, Nelson, Conway, Harper, Keiser and Kohl-Welles

AN ACT Relating to taxpayer accountability by requiring a net benefit to the state in order to claim the benefit of a tax expenditure and strengthening reporting and enforcement; and amending RCW 82.04.260, 82.04.4494, 82.08.956, 82.12.956, 82.32.585, and 82.32.534.

Referred to Committee on Ways & Means.

SB 5924 by Senator Zarelli

AN ACT Relating to the running start program; and amending RCW 28A.600.310, 28A.600.370, and 28B.15.910.

Referred to Committee on Ways & Means.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

SHB 1312 by House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Jinkins, Green and Kenney)

AN ACT Relating to statutory changes needed to implement a waiver to receive federal assistance for certain state purchased health care programs; amending RCW 70.47.060; and reenacting and amending RCW 70.47.020 and 74.09.035.

Referred to Committee on Ways & Means.

SHB 1632 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Hope, Hurst and Armstrong)

AN ACT Relating to the cost of supervision; amending RCW 9.94A.780, 9.95.214, 72.04A.120, 72.11.040, and 9.94A.74504; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

HB 2019 by Representative Dunshee

AN ACT Relating to the deposit of the additional cigarette tax; amending RCW 82.24.026; and declaring an emergency.

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

At 9:43 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:44 a.m. by the President Pro Tempore.

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MOTION

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

MOTION

Senator Chase moved adoption of the following resolution:

SENATE RESOLUTION
8651

By Senators Chase, Baxter, Prentice, McAuliffe, Kohl-Welles, Conway, Keiser, Pridemore, Tom, Kastama, Nelson, Haugen, Harper, Hargrove, Hatfield, Shin, Regala, Fraser, Eide, White, Rockefeller, Hobbs, Kline, Swecker, Pflug, and Schoesler

WHEREAS, Michael Reagan's reverence for our service men and women has led him to providing families who have lost loved ones with comfort in their greatest hour of need; and

WHEREAS, In the true Marine tradition of never leaving a man behind, Mr. Reagan has made it his life's work to immortalize our nation's fallen service men and women through the Fallen Heroes Project; and

WHEREAS, A former Marine combat veteran of the Vietnam War, Mr. Reagan has honored the Marine tradition of paying tribute to fallen soldiers through his art; and

WHEREAS, He is working tirelessly to provide surviving family members with hand drawn portraits of loved ones who have given the ultimate sacrifice in the Iraq and Afghanistan conflicts; and

WHEREAS, The goal of Mr. Reagan's project is to depict all of our country's fallen soldiers, more than 5,800 since these conflicts began; and

WHEREAS, Mr. Reagan's true calling began 5 years ago when a young widow commissioned him to draw a portrait of the husband she lost in the Iraq War; and

WHEREAS, As a combat veteran himself, Mr. Reagan understands the horrors of war and holds a great respect for those who have given their lives in service of our country; and

WHEREAS, He refused payment for the portrait and committed himself to providing surviving families with portraits of every man and woman killed in the Iraq and Afghanistan wars; and

WHEREAS, To date, Mr. Reagan has completed over 2,400 portraits of our country's service men and women, helping to bring those home who have made the ultimate sacrifice; and

WHEREAS, Mr. Reagan has spent his lifetime serving our country, not just during the Vietnam War and as a member of the Veterans of Foreign Wars Post 8870 in Edmonds, but also through his work raising money for charities throughout our state; and

WHEREAS, During his 30 year career as an artist, Mr. Reagan has completed over 10,000 portraits of U.S. Presidents, celebrities, and athletes; and

WHEREAS, The signed celebrity portraits he has donated on behalf of the Boys and Girls Club, The Humane Society, Children's Hospital, and the Fred Hutchinson Cancer Research Center have raised more than 10 million dollars for these deserving organizations;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate and Washingtonians from every corner of our state pay tribute to Michael Reagan and his tireless work on the Fallen Heroes Project and the comfort it provides the families of our service men and women; and

BE IT FURTHER RESOLVED, That we create further awareness of the Fallen Heroes Project and support the Michael G. Reagan Foundation to help Mr. Reagan achieve his true calling; and

BE IT FURTHER RESOLVED, That we too live by the words Semper Fi, meaning always faithful, and take a lesson from Mr. Reagan's actions, never forgetting the sacrifices made every day and throughout the history of our great country by the brave men and women who have given their lives so that all people of the world can live in peace and freedom; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Michael Reagan, VFW Post No. 8870 in Edmonds, Gold Star Mothers of Washington, and Colonel Mike Johnson.

Senators Chase and Hobbs spoke in favor of adoption of the resolution.

INTRODUCTION OF SPECIAL GUESTS

The President Pro Tempore welcomed Michael Reagan and the Gold Star Mothers who were seated in the gallery.

The President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8651.

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

MOTION

At 11:57 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 1:35 p.m. by President Owen.

SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL NO. 5018,
SENATE BILL NO. 5045,
SUBSTITUTE SENATE BILL NO. 5070,
SENATE BILL NO. 5076,
SENATE BILL NO. 5241,
SUBSTITUTE SENATE BILL NO. 5300,
SUBSTITUTE SENATE BILL NO. 5352,
SUBSTITUTE SENATE BILL NO. 5374,
SENATE BILL NO. 5395,
SUBSTITUTE SENATE BILL NO. 5442,
SENATE BILL NO. 5482,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5555,
SUBSTITUTE SENATE BILL NO. 5788,
SENATE BILL NO. 5849.

MOTION

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

MESSAGE FROM THE HOUSE

April 6, 2011

MR. PRESIDENT:

The House has passed:

SUBSTITUTE HOUSE BILL NO. 1277,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1738.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Regala moved that Gubernatorial Appointment No. 9069, Mark Mattke, as a member of the Work Force Training and Education Coordinating Board, be confirmed.

Senator Regala spoke in favor of the motion.

APPOINTMENT OF MARK MATTKE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9069, Mark Mattke as a member of the Work Force Training and Education Coordinating Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9069, Mark Mattke as a member of the Work Force Training and Education Coordinating Board and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 2; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Absent: Senators Pflug and Shin

Gubernatorial Appointment No. 9069, Mark Mattke, having received the constitutional majority was declared confirmed as a member of the Work Force Training and Education Coordinating Board.

MOTION

On motion of Senator White, Senator Shin was excused.

SIGNED BY THE PRESIDENT

The President signed:

HOUSE BILL NO. 1012,
SUBSTITUTE HOUSE BILL NO. 1048,
SUBSTITUTE HOUSE BILL NO. 1105,
SUBSTITUTE HOUSE BILL NO. 1172,
HOUSE BILL NO. 1179,
HOUSE BILL NO. 1181,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1206,
HOUSE BILL NO. 1215,
HOUSE BILL NO. 1227,
SUBSTITUTE HOUSE BILL NO. 1243,
HOUSE BILL NO. 1263,

HOUSE BILL NO. 1303,
SUBSTITUTE HOUSE BILL NO. 1304,
HOUSE BILL NO. 1353,
SECOND SUBSTITUTE HOUSE BILL NO. 1362,
HOUSE BILL NO. 1391,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1489,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1492,
SECOND SUBSTITUTE HOUSE BILL NO. 1519,
SUBSTITUTE HOUSE BILL NO. 1575,
SUBSTITUTE HOUSE BILL NO. 1585,
HOUSE BILL NO. 1625,
HOUSE BILL NO. 1709,
SUBSTITUTE HOUSE BILL NO. 1719,
SECOND SUBSTITUTE HOUSE BILL NO. 1803,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1808,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1826,
HOUSE BILL NO. 1937,
HOUSE BILL NO. 1939.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced former Senator Sid Snyder and wife Betti who were seated in the gallery.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1538, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Buys, Blake, Chandler, Taylor, Orcutt, Hinkle, Haler, Johnson and Warnick)

Regarding animal health inspections.

The measure was read the second time.

MOTION

Senator Schoesler moved that the following amendment by Senator Schoesler and others be adopted:

On page 1, after line 5 insert the following:

"**Sec. 1.** RCW 16.36.025 and 1998 c 8 s 19 are each amended to read as follows:

The director may collect moneys to recover the reasonable costs of purchasing, printing, and distributing ((certificates)) official individual identification devices or methods, regulatory forms, and other supplies ((to veterinarians)). All funds received under this section must be deposited in the animal disease traceability account in the agricultural local fund created in RCW 43.23.230 to cover the costs associated with this chapter.

NEW SECTION. **Sec. 2.** A new section is added to chapter 16.36 RCW to read as follows:

(1) The director shall adopt by rule a fee per head on cattle sold or slaughtered in the state or transported out of the state to administer animal disease traceability activities for cattle. The fee must be paid by:

- (a) Sellers of cattle sold in the state, without exception;
- (b) Owners of cattle that are transported out of Washington, unless an exception is provided by rule; and
- (c) Owners of cattle slaughtered in the state.

(2) The fee adopted by the department may not exceed forty cents per head of cattle.

(3)(a) Except where the seller presents proof that the fee has been paid by a meat processor under (c) of this subsection, the fee required in this section must be paid by the owner of cattle receiving a livestock inspection issued by the department under chapter 16.57

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RCW in the same manner as livestock inspection fees are collected under RCW 16.57.220.

(b) The fee required in this section must be paid from the owner of cattle not receiving a livestock inspection issued by the department under chapter 16.57 RCW by the fifteenth day of the month following the month the sale or transportation out of state occurred, or at a different time as designated by rule.

(c) When cattle are slaughtered, the fee required by this section must be collected from the seller of the cattle by the meat processor. The meat processor must transmit the fee to the department by the fifteenth day of the month following the month the transaction occurred, or at a different time as designated by rule. When cattle owned by a meat processor are slaughtered, the fee must be paid by the meat processor.

(4) All fees received by the department under this section must be deposited in the animal disease traceability account in the agricultural local fund created in RCW 43.23.230 to carry out animal disease traceability activities for cattle and to compensate the livestock identification program for data and fee collection.

(5) Any person failing to pay the fee established in this section has committed a class 1 civil infraction punishable as provided in RCW 7.80.120. Each violation is a separate and distinct offense.

NEW SECTION. Sec. 3. A new section is added to chapter 16.36 RCW to read as follows:

By December 1st of each year, the department shall submit an activity report and financial statement on the implementation of the animal disease traceability activities to the animal disease traceability advisory committee created in section 5 of this act.

Sec. 4. RCW 16.58.100 and 2003 c 326 s 54 are each amended to read as follows:

(1) The director shall conduct audits of the cattle received, fed, handled, and shipped by the licensee at each certified feed lot. These audits shall be for the purpose of determining if the cattle correlate with the inspection certificates issued in their behalf and that the certificate of assurance furnished the director by the licensee correlates with his or her assurance that inspected cattle were not commingled with uninspected cattle.

(2) The department shall conduct an audit to determine compliance with section 2 of this act at the time of conducting audits under subsection (1) of this section.

NEW SECTION. Sec. 5. A new section is added to chapter 16.36 RCW to read as follows:

(1) The director shall establish an animal disease traceability advisory committee that will serve in an advisory capacity to the director and must meet at least twice a year.

(2) The animal disease traceability advisory committee is composed of eight members appointed by the director. Two members must represent cow-calf producers, and one member must represent each of the following groups: Cattle feeders, dairy farmers, public livestock markets, meat processors, and a statewide agricultural association. The director or the director's designee must also serve on the animal disease traceability advisory committee. In making appointments, the director shall solicit nominations from organizations representing these groups statewide. The animal disease traceability advisory committee shall elect a member to serve as chair of the animal disease traceability advisory committee.

(3) Membership of the animal disease traceability advisory committee may be expanded by a unanimous vote of its members.

(4) The animal disease traceability advisory committee must work with the director to develop a plan to implement as quickly as practicable the electronic transfer of traceability data.

(5) Animal disease traceability advisory committee members must also work with the director to:

(a) Communicate effectively to their respective industry associations as to the progress of the animal disease traceability activities and to encourage the state's cattle industry to participate in the animal disease traceability program;

(b) Utilize new technology within the department and industry that enhances the animal disease traceability program within existing funding;

(c) Study national industry trends in traceability of animal movements and related animal health issues; and

(d) Discuss other matters as mutually agreed upon by the director and the animal disease traceability advisory committee for the benefit of the animal disease traceability program.

(6) Animal disease traceability advisory committee members serve three-year terms. However, the director shall by rule provide shorter initial terms for some of the members of the animal disease traceability advisory committee to stagger the expiration of the initial terms. The members serve without compensation.

Sec. 6. RCW 16.36.005 and 2010 c 66 s 1 are each reenacted and amended to read as follows:

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

(1) "Animal" means all members of the animal kingdom except humans, fish, and insects. However, "animal" does not mean noncapative wildlife as defined in RCW 77.08.010, except as used in RCW 16.36.050(1) and 16.36.080 (1), (2), (3), and (5).

(2) "Animal reproductive product" means sperm, ova, fertilized ova, and embryos from animals.

(3) "Certificate of veterinary inspection" means a legible veterinary health inspection certificate on an official electronic or paper form from the state of origin or from the animal and plant health inspection service (APHIS) of the United States department of agriculture, executed by a licensed and accredited veterinarian or a veterinarian approved by the animal and plant health inspection service. "Certificate of veterinary inspection" is also known as an "official health certificate."

(4) "Communicable disease" means a disease due to a specific infectious agent or its toxic products transmitted from an infected person, animal, or inanimate reservoir to a susceptible host, either directly or indirectly through an intermediate plant or animal host, vector, or the environment.

(5) "Contagious disease" means a communicable disease that is capable of being easily transmitted from one animal to another animal or a human.

(6) "Department" means the department of agriculture of the state of Washington.

(7) "Deputized state veterinarian" means a Washington state licensed and accredited veterinarian appointed and compensated by the director according to state law and department policies.

(8) "Director" means the director of the department or his or her authorized representative.

(9) "Farm-raised fish" means fish raised by aquaculture as defined in RCW 15.85.020. Farm-raised fish are considered to be a part of animal agriculture; however, disease inspection, prevention, and control programs and related activities for farm-raised fish are administered by the department of fish and wildlife under chapter 77.115 RCW.

(10) "Garbage" means the solid animal and vegetable waste and offal together with the natural moisture content resulting from the handling, preparation, or consumption of foods in houses, restaurants, hotels, kitchens, markets, meat shops, packing houses and similar establishments or any other food waste containing meat or meat products.

(11) "Herd or flock plan" means a written management agreement between the owner of a herd or flock and the state veterinarian, with possible input from a private accredited

veterinarian designated by the owner and the area veterinarian-in-charge of the United States department of agriculture, animal and plant health inspection service, veterinary services in which each participant agrees to undertake actions specified in the herd or flock plan to control the spread of infectious, contagious, or communicable disease within and from an infected herd or flock and to work toward eradicating the disease in the infected herd or flock.

(12) "Hold order" means an order by the director to the owner or agent of the owner of animals or animal reproductive products which restricts the animals or products to a designated holding location pending an investigation by the director of the disease, disease exposure, well-being, movement, or import status of the animals or animal reproductive products.

(13) "Infectious agent" means an organism including viruses, rickettsia, bacteria, fungi, protozoa, helminthes, or prions that is capable of producing infection or infectious disease.

(14) "Infectious disease" means a clinical disease of humans or animals resulting from an infection with an infectious agent that may or may not be communicable or contagious.

(15) "Livestock" means horses, mules, donkeys, cattle, bison, sheep, goats, swine, rabbits, llamas, alpacas, ratites, poultry, waterfowl, game birds, and other species so designated by statute. "Livestock" does not mean free ranging wildlife as defined in Title 77 RCW.

(16) "Person" means a person, persons, firm, or corporation.

(17) "Quarantine" means the placing and restraining of any animal or its reproductive products by the owner or agent of the owner within a certain described and designated enclosure or area within this state, or the restraining of any animal or its reproductive products from entering this state, as may be directed in an order by the director.

(18) "Reportable disease" means a disease designated by rule by the director as reportable to the department by veterinarians and others made responsible to report by statute.

(19) "Veterinary biologic" means any virus, serum, toxin, and analogous product of natural or synthetic origin, or product prepared from any type of genetic engineering, such as diagnostics, antitoxins, vaccines, live microorganisms, killed microorganisms, and the antigenic or immunizing components intended for use in the diagnosis, treatment, or prevention of diseases in animals.

(20) "Meat processors" means a person licensed to operate a slaughtering establishment under chapter 16.49 RCW or the federal meat inspection act (21 U.S.C. Sec. 601 et seq.).

(21) "Sold" means sale, trade, gift, barter, or any other action that constitutes a change of ownership.

Sec. 7. RCW 43.23.230 and 1988 c 254 s 1 are each amended to read as follows:

(1) The agricultural local fund is hereby established in the custody of the state treasurer. The fund shall consist of such money as is directed by law for deposit in the fund, and such other money not subject to appropriation that the department authorizes to be deposited in the fund. Any money deposited in the fund, the use of which has been restricted by law, may only be expended in accordance with those restrictions. The department may make disbursements from the fund. The fund is not subject to legislative appropriation.

(2) There is created within the agricultural local fund the animal disease traceability account which must be used to account for the costs associated with the implementation of chapter 16.36 RCW."

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

Senator Schoesler spoke in favor of adoption of the amendment.

MOTION

On motion of Senator Ericksen, Senator Pflug was excused.

The President declared the question before the Senate to be the adoption of the amendment by Senator Schoesler and others to Substitute House Bill No. 1538.

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

MOTION

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

On page 1, line 1 of the title, after "RCW" insert "16.36.025, 16.58.100, 43.23.230,"

On page 1, line 3 of the title, after "16.57.360;" insert "reenacting and amending RCW 16.36.005; adding new sections to chapter 16.36 RCW;"

MOTION

On motion of Senator Hatfield, the rules were suspended, Substitute House Bill No. 1538 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hatfield spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1538 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1538 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 4; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Swecker, Tom, White and Zarelli

Voting nay: Senators Benton, Carrell, Holmquist Newbry and Stevens

Excused: Senators Pflug and Shin

SUBSTITUTE HOUSE BILL NO. 1538 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED HOUSE BILL NO. 1409, by Representatives Appleton, Hurst and McCoy

Authorizing the sale, exchange, transfer, or lease of public property.

The measure was read the second time.

MOTION

Senator Pridemore moved that the following committee striking amendment by the Committee on Government Operations, Tribal Relations & Elections be adopted:

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Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 39.33.010 and 2003 c 303 s 1 are each amended to read as follows:

(1) The state or any municipality or any political subdivision thereof, may sell, transfer, exchange, lease or otherwise dispose of any property, real or personal, or property rights, including but not limited to the title to real property, to the state or any municipality or any political subdivision thereof, or the federal government, or a federally recognized Indian tribe, on such terms and conditions as may be mutually agreed upon by the proper authorities of the state and/or the subdivisions concerned. In addition, the state, or any municipality or any political subdivision thereof, may sell, transfer, exchange, lease, or otherwise dispose of personal property, except weapons, to a foreign entity.

(2) This section shall be deemed to provide an alternative method for the doing of the things authorized herein, and shall not be construed as imposing any additional condition upon the exercise of any other powers vested in the state, municipalities or political subdivisions.

(3) No intergovernmental transfer, lease, or other disposition of property made pursuant to any other provision of law prior to May 23, 1972, shall be construed to be invalid solely because the parties thereto did not comply with the procedures of this section."

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Government Operations, Tribal Relations & Elections to Engrossed House Bill No. 1409.

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

MOTION

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

On page 1, line 2 of the title, after "property;" strike the remainder of the title and insert "and amending RCW 39.33.010."

MOTION

On motion of Senator Pridemore, the rules were suspended, Engrossed House Bill No. 1409 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

Senator King spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1409 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1409 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 5; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Prentice, Pridemore,

Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Ericksen, Holmquist Newbry, Honeyford, Morton and Stevens

Excused: Senator Pflug

ENGROSSED HOUSE BILL NO. 1409 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1506, by House Committee on Judiciary (originally sponsored by Representatives Chandler, Takko and Johnson)

Addressing fire suppression efforts and capabilities on unprotected land outside a fire protection jurisdiction.

The measure was read the second time.

MOTION

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

On page 3, beginning on line 5, after "for" strike all material through "response" on line 6 and insert "actual costs that are incurred that are proportionate to the fire itself"

Senator Pridemore spoke in favor of adoption of the amendment.

POINT OF INQUIRY

Senator Honeyford: "Would Senator Pridemore yield to a question? Thank you is this based on acreage or difficulty of the fire or how do you arrive at those numbers?"

Senator Pridemore: "It was based on the actual cost of the fire district or fire prevention agency would incur in the expense in fighting that particular fire."

Senator Honeyford: "Just one district or multiple districts?"

Senator Pridemore: "It could be more than one district, I would imagine, Senator."

MOTION

On motion of Senator Ericksen, Senator Stevens was excused.

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove and Chase on page 3, line 5 to Substitute House Bill No. 1506.

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

MOTION

On motion of Senator Pridemore, the rules were suspended, Substitute House Bill No. 1506 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senator Honeyford spoke against passage of the bill.

POINT OF INQUIRY

Senator Carrell: "Would Senator Pridemore yield to a question? It seems like that a comparable bill last year had a provision to allow charging a fee on lands between the low and high tide that I don't believe could ever catch on fire. Does this bill have a provision like that in it?"

Senator Pridemore: "I don't recall that provision from last year although it was not a bill that I worked with very closely. I don't believe that it has a provision like that, to be honest I don't fully understand it but I don't believe that it has a provision like that."

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1506 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1506 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Honeyford, Morton and Parlette
Excused: Senator Stevens

SUBSTITUTE HOUSE BILL NO. 1506 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1153, by House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Ladenburg, Walsh, Hurst, Goodman, Kagi, Rodne and Jinkins)

Concerning costs for the collection of DNA samples.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, Second Substitute House Bill No. 1153 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1153.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1153 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senator Holmquist Newbry

Excused: Senator Stevens

SECOND SUBSTITUTE HOUSE BILL NO. 1153, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1861, by House Committee on Transportation (originally sponsored by Representatives Armstrong, Clibborn, Hargrove, Liias, Billig and Schmick)

Concerning the sale or lease of surplus state-owned railroad properties.

The measure was read the second time.

MOTION

Senator King moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 47.76.280 and 1995 c 380 s 8 are each amended to read as follows:

(1) The department may sell or lease property acquired under this chapter to a county rail district established under chapter 36.60 RCW, a county, a port district, or any other public or private entity authorized to operate rail service. Any public or private entity that originally donated funds to the department under this chapter shall receive credit against the purchase price for the amount donated to the department, less management costs, in the event such public or private entity purchases the property from the department.

(2) If no county rail district, county, port district, or other public or private entity authorized to operate rail service purchases or leases the property within six years after its acquisition by the department, the department may sell or lease such property in the manner provided in RCW 47.76.290. Failing this, the department may sell or convey all such property in the manner provided in RCW 47.76.300 or 47.76.320.

(3) Property acquired by the department under this chapter that is not essential for the operation of the rail service contemplated in subsections (1) and (2) of this section may be sold or leased at any time following acquisition in the manner provided in RCW 47.76.290.

Sec. 2. RCW 47.76.290 and 1993 c 224 s 8 are each amended to read as follows:

(1) If real property acquired by the department under this chapter that is essential for the operation of the rail service contemplated in RCW 47.76.280 is not sold or leased to a public or private entity authorized to operate rail service within six years of its acquisition by the department, the department may sell or lease the property at fair market value to any of the following governmental entities or persons:

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- (a) Any other state agency;
- (b) The city or county in which the property is situated;
- (c) Any other municipal corporation;
- (d) The former owner, heir, or successor of the property from whom the property was acquired; or

(e) Any abutting private owner or owners.

(2)(a) Real property acquired by the department under this chapter that is not essential for the operation of the rail service contemplated in RCW 47.76.280 may be leased or sold at fair market value, at any time following acquisition, to any entity or person in the following priority order:

(i) The current tenant or lessee of the real property or real property abutting the property being sold;

(ii) An abutting private owner, but only after each other abutting private owner, if any, as shown in the records of the county assessor, is notified in writing of the proposed sale. If more than one abutting private owner requests in writing the right to purchase the real property within fifteen days after receiving notice of the proposed sale, the real property must be sold at public auction in the manner provided in RCW 47.76.320 (2) through (4);

(iii) Any other state agency;

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

(v) Any other municipal corporation; or

(vi) The former owner, heir, or successor of the real property from whom the real property was acquired.

(b) If the department intends to sell or lease property under this subsection to an entity or person that is not the entity or person with the highest priority status under this subsection, the department must give written notice to each entity or person with higher priority status under this subsection that is reasonably considered to have an interest in the property. The entity with the highest priority status, willing to enter into a sale or lease at fair market value, must be given right of first refusal to buy or lease the property.

(3) Notice of intention to sell under this section shall be given by publication in one or more newspapers of general circulation in the area in which the property is situated not less than thirty days prior to the intended date of sale.

~~((3))~~ (4) Sales to purchasers under this section may, at the department's option, be for cash or by real estate contract, except that any such property of the Palouse River and Coulee City rail lines that was purchased with bond proceeds in November 2004 may be sold only for cash at fair market value.

~~((4))~~ (5) Conveyances made under this section shall be by deed executed by the secretary of transportation and shall be duly acknowledged.

~~((5))~~ (6) All moneys received under this section shall be deposited in the essential rail ~~((banking account of the general fund))~~ assistance account created in RCW 47.76.250. Any moneys deposited under this subsection from sales or leases of property that are related, in any way, to the Palouse River and Coulee City rail lines must be used and, in the case of moneys received from sales, expended within two years of receipt, only for the refurbishment or improvement of the Palouse River and Coulee City rail lines.

NEW SECTION. Sec. 3. A new section is added to chapter 46.68 RCW to read as follows:

All revenue received by the department of transportation from operating leases or other business operations on the Palouse River and Coulee City rail lines must be deposited in the essential rail assistance account created in RCW 47.76.250 and used only for the refurbishment or improvement of the Palouse River and Coulee City rail lines.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to Substitute House Bill No. 1861.

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

MOTION

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

On page 1, line 2 of the title, after "properties;" strike the remainder of the title and insert "amending RCW 47.76.280 and 47.76.290; adding a new section to chapter 46.68 RCW; and declaring an emergency."

MOTION

On motion of Senator King, the rules were suspended, Substitute House Bill No. 1861 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1861 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1861 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Excused: Senator Stevens

SUBSTITUTE HOUSE BILL NO. 1861 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1595, by House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Appleton and Green)

Regarding graduates of foreign medical schools.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 1595 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1595.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1595 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Excused: Senator Stevens

SUBSTITUTE HOUSE BILL NO. 1595, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1220, by House Committee on Health Care & Wellness (originally sponsored by Representatives Rolfes, Cody, Appleton, Frockt, Hinkle, Liias, Fitzgibbon, Jinkins, Hunt, Van De Wege, Moeller and Kenney)

Regulating insurance rates.

The measure was read the second time.

MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Health & Long-Term Care be not adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 48.02.120 and 1985 c 264 s 2 are each amended to read as follows:

(1) The commissioner shall preserve in permanent form records of his or her proceedings, hearings, investigations, and examinations, and shall file such records in his or her office.

(2) The records of the commissioner and insurance filings in his or her office shall be open to public inspection, except as otherwise provided by this code.

(3) Except as provided in subsection (4) of this section, actuarial formulas, statistics, and assumptions submitted in support of a rate or form filing by an insurer, health care service contractor, or health maintenance organization or submitted to the commissioner upon his or her request shall be withheld from public inspection in order to preserve trade secrets or prevent unfair competition.

(4) For rate filings with an effective date on or after January 1, 2012, subsection (3) of this section does not apply to rate filings for individual and small group health benefit plans. Subsection (3) of this section may continue to apply for a period of one year from the date a new individual or small group product filing is submitted or until the next rate filing for the product, whichever occurs earlier, if the commissioner determines that the proposed rate filing is for a new product that is distinct and unique from any of the carrier's

currently or previously offered health benefit plans. Carriers must make a written request for a product classification as a new product under this subsection, and must receive subsequent written approval by the commissioner for this subsection to apply.

(5) Unless the commissioner has determined that the filing is for a new product pursuant to subsection (4) of this section, for individual or small group health benefit plan rate filings with an effective date on or after January 1, 2012, the commissioner must:

(a) Make each filing available for public inspection on the tenth calendar day after the commissioner determines that the rate filing is complete and accepts the filing for review through the electronic rate and form filing system;

(b) Prepare a rate disclosure summary form in a standard format for carriers to complete and submit to the commissioner electronically as part of each rate filing. The disclosure form must be written in plain language easily understood by the general public. The summary must allow carriers to explain the relationship between premium and health care cost drivers. The summary must set forth, at a minimum, the following: (i) The rate increase, year over year, for annual increases, including historic rate adjustments for at least the past three years; (ii) any percent increase to current rates attributed to mandated changes, not including changes due to demographics; (iii) the number of members impacted by the rate; (iv) the impact of benefit changes on the rate; (v) the products' filed health care trend; (vi) the projected medical loss ratio for the rating period; and (vii) other information the commissioner finds reasonably necessary to help consumers understand the reasons for proposed and accepted rates;

(c) Prepare a standardized rate summary form, to explain his or her findings after the rate review process is completed. The commissioner's summary form must be included as part of the rate filing documentation and available to the public electronically.

(6) The commissioner must adopt rules to implement and administer this section. The rules must include, but are not limited to, a process for updating the summary form content referenced in subsection (5)(b) of this section. In adopting rules under this section, the commissioner must consult with carriers, as defined in RCW 48.43.005, and consumers in the development of the summary forms."

On page 1, line 1 of the title, after "rates;" strike the remainder of the title and insert "and amending RCW 48.02.120."

The President declared the question before the Senate to be the motion by Senator Keiser to not adopt the committee striking amendment by the Committee on Health & Long-Term Care to Engrossed Substitute House Bill No. 1220.

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

MOTION

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

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 48.02.120 and 1985 c 264 s 2 are each amended to read as follows:

(1) The commissioner shall preserve in permanent form records of his or her proceedings, hearings, investigations, and examinations, and shall file such records in his or her office.

(2) The records of the commissioner and insurance filings in his or her office shall be open to public inspection, except as otherwise provided by this code.

(3) Except as provided in subsection (4) of this section, actuarial formulas, statistics, and assumptions submitted in support of a rate or form filing by an insurer, health care service contractor, or health maintenance organization or submitted to the commissioner upon

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his or her request shall be withheld from public inspection in order to preserve trade secrets or prevent unfair competition.

(4) For individual and small group health benefit plan rate filings submitted on or after July 1, 2011, subsection (3) of this section applies only to the numeric values of each small group rating factor used by a health carrier as authorized by RCW 48.21.045(3)(a), 48.44.023(3)(a), and 48.46.066(3)(a). Subsection (3) of this section may continue to apply for a period of one year from the date a new individual or small group product filing is submitted or until the next rate filing for the product, whichever occurs earlier, if the commissioner determines that the proposed rate filing is for a new product that is distinct and unique from any of the carrier's currently or previously offered health benefit plans. Carriers must make a written request for a product classification as a new product under this subsection and must receive subsequent written approval by the commissioner for this subsection to apply.

(5) Unless the commissioner has determined that a filing is for a new product pursuant to subsection (4) of this section, for all individual or small group health benefit rate filings submitted on or after July 1, 2011, the health carrier must submit part I rate increase summary and part II written explanation of the rate increase as set forth by the department of health and human services at the time of filing, and the commissioner must:

(a) Make each filing and the part I rate increase summary and part II written explanation of the rate increase available for public inspection on the tenth calendar day after the commissioner determines that the rate filing is complete and accepts the filing for review through the electronic rate and form filing system; and

(b) Prepare a standardized rate summary form, to explain his or her findings after the rate review process is completed. The commissioner's summary form must be included as part of the rate filing documentation and available to the public electronically."

Senator Becker 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 Becker and Keiser to Engrossed Substitute House Bill No. 1220.

The motion by Senator Becker 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 "rates;" strike the remainder of the title and insert "and amending RCW 48.02.120."

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute House Bill No. 1220 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1220 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1220 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Morton

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1220 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1811, by House Committee on Community Development & Housing (originally sponsored by Representatives Springer, Roberts and Stanford)

Allowing for informed telephonic consent for access to housing or homelessness services.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.185C.180 and 2006 c 349 s 8 are each amended to read as follows:

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

(2) Information about homeless individuals for the Washington homeless client management information system shall come from the Washington homeless census and from state agencies and community organizations providing services to homeless individuals and families.

(a) Personally identifying information about homeless individuals for the Washington homeless client management information system may only be collected after having obtained informed, reasonably time limited (i) written consent from the homeless individual to whom the information relates, or (ii) telephonic consent from the homeless individual, provided that written consent is obtained at the first time the individual is physically present at an organization with access to the Washington homeless client management information system. Safeguards consistent with federal requirements on data collection must be in place to protect homeless individuals' rights regarding their personally identifying information.

(b) Data collection under this subsection shall be done in a manner consistent with federally informed consent guidelines regarding human research which, at a minimum, require that individuals (~~be informed~~) receive:

(i) Information about the expected duration of their participation (*) in the Washington homeless client management information system;

(ii) An explanation of whom to contact for answers to pertinent questions about the data collection and their rights

regarding their personal identifying information(ç);

(iii) An explanation regarding whom to contact in the event of injury to the individual related to the Washington homeless client ((survey-)) management information system;

(iv) A description of any reasonably foreseeable risks to the homeless individual(ç); and

(v) A statement describing the extent to which confidentiality of records identifying the individual will be maintained.

(c) The department must adopt policies governing the appropriate process for destroying Washington homeless client management information system paper documents containing personally identifying information when the paper documents are no longer needed. The policies must not conflict with any federal data requirements.

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

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

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

(a) Protect the right of privacy of individuals;

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

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

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

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

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Substitute House Bill No. 1811.

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

MOTION

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

On page 1, line 2 of the title, after "services;" strike the remainder of the title and insert "and amending RCW 43.185C.180."

MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 1811 as amended by the Senate was

advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1811 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1811 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1811 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1783, by House Committee on Local Government (originally sponsored by Representatives Pedersen, Upthegrove, Takko, Blake, Rodne, Smith, Carlyle, Fitzgibbon, Springer, Angel and Kenney)

Amending the consideration of houseboats and houseboat moorages for the purposes of aquatic lands and shoreline management.

The measure was read the second time.

MOTION

Senator Ranker moved that the following committee striking amendment by the Committee on Natural Resources & Marine Waters be not adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature recognizes that our state's existing houseboat communities are an important cultural amenity and an element of our maritime history. These surviving communities are a linkage to the past, when our waterways were the focus of commerce, transport, and development. In order to preserve the long-term survival of these communities, consistent with the legislature's goal of allowing their continued use, improvement, and replacement without undue burden, the legislature finds that it is necessary to clarify their legal status.

Sec. 2. RCW 90.58.270 and 1971 ex.s. c 286 s 27 are each amended to read as follows:

(1) Nothing in this statute shall constitute authority for requiring or ordering the removal of any structures, improvements, docks, fills, or developments placed in navigable waters prior to December 4, 1969, and the consent and authorization of the state of Washington to the impairment of public rights of navigation, and corollary rights incidental thereto, caused by the retention and maintenance of said structures, improvements, docks, fills or developments are hereby granted: PROVIDED, That the consent

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herein given shall not relate to any structures, improvements, docks, fills, or developments placed on tidelands, shorelands, or beds underlying said waters which are in trespass or in violation of state statutes.

(2) Nothing in this section shall be construed as altering or abridging any private right of action, other than a private right which is based upon the impairment of public rights consented to in subsection (1) hereof.

(3) Nothing in this section shall be construed as altering or abridging the authority of the state or local governments to suppress or abate nuisances or to abate pollution.

(4) Subsection (1) of this section shall apply to any case pending in the courts of this state on June 1, 1971, relating to the removal of structures, improvements, docks, fills, or developments based on the impairment of public navigational rights.

(5) A floating home legally established prior to January 1, 2011, shall be classified as conforming preferred uses. "Floating home" means a structure designed as a dwelling unit constructed on a float that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed. A conforming floating home is allowed to be maintained, repaired, expanded, and replaced consistent with the shoreline master program."

On page 1, line 1 of the title, after "moorages;" strike the remainder of the title and insert "amending RCW 90.58.270; and creating a new section."

The President declared the question before the Senate to be the by Senator Ranker to not adopt the committee striking amendment by the Committee on Natural Resources & Marine Waters to Substitute House Bill No. 1783.

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

MOTION

Senator Ranker moved that the following striking amendment by Senators Ranker and Murray be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature recognizes that existing floating homes, as part of our state's existing houseboat communities, are an important cultural amenity and element of our maritime history. These surviving floating home communities are a linkage to the past, when our waterways were the focus of commerce, transport, and development. In order to ensure the vitality and long-term survival of these existing floating home communities, consistent with the legislature's goal of allowing their continued use, improvement, and replacement without undue burden, the legislature finds that it is necessary to clarify their legal status.

Sec. 2. RCW 90.58.270 and 1971 ex.s. c 286 s 27 are each amended to read as follows:

(1) Nothing in this statute shall constitute authority for requiring or ordering the removal of any structures, improvements, docks, fills, or developments placed in navigable waters prior to December 4, 1969, and the consent and authorization of the state of Washington to the impairment of public rights of navigation, and corollary rights incidental thereto, caused by the retention and maintenance of said structures, improvements, docks, fills or developments are hereby granted: PROVIDED, That the consent herein given shall not relate to any structures, improvements, docks, fills, or developments placed on tidelands, shorelands, or beds underlying said waters which are in trespass or in violation of state statutes.

(2) Nothing in this section shall be construed as altering or abridging any private right of action, other than a private right which is based upon the impairment of public rights consented to in subsection (1) hereof.

(3) Nothing in this section shall be construed as altering or abridging the authority of the state or local governments to suppress or abate nuisances or to abate pollution.

(4) Subsection (1) of this section shall apply to any case pending in the courts of this state on June 1, 1971 relating to the removal of structures, improvements, docks, fills, or developments based on the impairment of public navigational rights.

(5)(a) A floating home permitted or legally established prior to January 1, 2011, must be classified as a conforming preferred use.

(b) For the purposes of this subsection:

(i) "Conforming preferred use" means that applicable development and shoreline master program regulations may only impose reasonable conditions and mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating homes and floating home moorages by rendering these actions impracticable.

(ii) "Floating home" means a single-family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed."

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Ranker and Murray to Substitute House Bill No. 1783.

The motion by Senator Ranker 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 "moorages;" strike the remainder of the title and insert "amending RCW 90.58.270; and creating a new section."

MOTION

On motion of Senator Ranker, the rules were suspended, Substitute House Bill No. 1783 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Ranker and Morton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1783 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1783 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter and Stevens

SUBSTITUTE HOUSE BILL NO. 1783 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1697, by House Committee on Early Learning & Human Services (originally sponsored by Representatives Roberts, Seaquist, Goodman, Orwall, Dickerson and Kenney)

Providing for unannounced visits to homes with dependent children.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that foster parents are a critical piece of the dependency system. The legislature further finds that the majority of foster parents provide excellent care to children in the dependency system, many of whom have suffered serious damage in their families of origin. It is the legislature's belief that through the selfless dedication of many foster parents that abused and neglected children are able to heal and go on to lead productive lives. The legislature also believes that some foster parents act in ways that are damaging to the children in their care and it is the department of social and health services' responsibility to make sure all children in care are safe. The legislature finds that unannounced visits to caregivers' homes is another method by which the department of social and health services can make sure the children in foster care are safe.

Sec. 2. RCW 74.13.031 and 2009 c 520 s 51, 2009 c 491 s 7, and 2009 c 235 s 2 are each reenacted and amended to read as follows:

(1) The department and supervising agencies shall develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of runaway, dependent, or neglected children.

(2) Within available resources, the department and supervising agencies shall recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and the department shall annually report to the governor and the legislature concerning the department's and supervising agency's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) The department shall investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians,

or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency. An investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) The department or supervising agencies shall offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(5) The department or supervising agencies shall monitor placements of children in out-of-home care and in-home dependencies to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010. Under this section children in out-of-home care and in-home dependencies and their caregivers shall receive a private and individual face-to-face visit each month. The department and the supervising agencies shall randomly select no less than ten percent of the caregivers currently providing care to receive one unannounced face-to-face visit in the caregiver's home per year. No caregiver will receive an unannounced visit through the random selection process for two consecutive years. If the caseworker makes a good faith effort to conduct the unannounced visit to a caregiver and is unable to do so, that month's visit to that caregiver need not be unannounced. The department and supervising agencies are encouraged to group monthly visits to caregivers by geographic area so that in the event an unannounced visit cannot be completed, the caseworker may complete other required monthly visits. The department shall use a method of random selection that does not cause a fiscal impact to the department.

The department or supervising agencies shall conduct the monthly visits with children and caregivers to whom it is providing child welfare services.

(6) The department and supervising agencies shall have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, to provide for the routine and necessary medical, dental, and mental health care, or necessary emergency care of the children, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(7) The department and supervising agency shall have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(8) The department and supervising agency shall have authority to purchase care for children.

(9) The department shall establish a children's services advisory committee with sufficient members representing supervising agencies which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

(10) The department and supervising agencies shall have authority to provide continued foster care or group care as needed to participate in or complete a high school or vocational school program.

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(11)(a) The department shall, within amounts appropriated for this specific purpose, have authority to provide continued foster care or group care to youth ages eighteen to twenty-one years who are:

(i) Enrolled and participating in a postsecondary or vocational educational program;

(ii) Participating in a program or activity designed to promote or remove barriers to employment;

(iii) Engaged in employment for eighty hours or more per month; or

(iv) Incapable of engaging on any of the activities described in (a)(i) through (iii) of this subsection due to a medical condition that is supported by regularly updated information.

(b) A youth who remains eligible for placement services or benefits pursuant to department rules may continue to receive placement services and benefits until the youth reaches his or her twenty-first birthday.

(12) The department, within amounts appropriated for this specific purpose, ~~((have))~~ has authority to provide adoption support benefits, or subsidized relative guardianship benefits on behalf of youth ages eighteen to twenty-one years who achieved permanency through adoption or a subsidized relative guardianship at age sixteen or older and who are engaged in one of the activities described in subsection (11) of this section.

(13) The department shall refer cases to the division of child support whenever state or federal funds are expended for the care and maintenance of a child, including a child with a developmental disability who is placed as a result of an action under chapter 13.34 RCW, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents of the child. Cases involving individuals age eighteen through twenty shall not be referred to the division of child support unless required by federal law.

(14) The department and supervising agencies shall have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order; and the purchase of such care shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this section all services to be provided by the department under subsections (4), (6), and (7) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

(15) Within amounts appropriated for this specific purpose, the supervising agency or department shall provide preventive services to families with children that prevent or shorten the duration of an out-of-home placement.

(16) The department and supervising agencies shall have authority to provide independent living services to youths, including individuals who have attained eighteen years of age, and have not attained twenty-one years of age who are or have been in foster care.

(17) The department and supervising agencies shall consult at least quarterly with foster parents, including members of the foster parent association of Washington state, for the purpose of receiving information and comment regarding how the department and supervising agencies are performing the duties and meeting the obligations specified in this section and RCW 74.13.250 and 74.13.320 regarding the recruitment of foster homes, reducing foster parent turnover rates, providing effective training for foster parents, and administering a coordinated and comprehensive plan that

strengthens services for the protection of children. Consultation shall occur at the regional and statewide levels.

(18)(a) The department shall, within current funding levels, place on ~~((the))~~ its public web site ~~((maintained by the department))~~ a document listing the duties and responsibilities the department has to a child subject to a dependency petition including, but not limited to, the following:

(i) Reasonable efforts, including the provision of services, toward reunification of the child with his or her family;

(ii) Sibling visits subject to the restrictions in RCW 13.34.136(2)(b)(ii);

(iii) Parent-child visits;

(iv) Statutory preference for placement with a relative or other suitable person, if appropriate; and

(v) Statutory preference for an out-of-home placement that allows the child to remain in the same school or school district, if practical and in the child's best interests.

(b) The document must be prepared in conjunction with a community-based organization and must be updated as needed."

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Substitute House Bill No. 1697.

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

MOTION

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

On page 1, line 2 of the title, after "system;" strike the remainder of the title and insert "reenacting and amending RCW 74.13.031; and creating a new section."

MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 1697 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1697 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1697 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1697 as amended by the Senate, having received the constitutional majority, was declared

passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 2:57 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 4:53 p.m. by President Owen.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1024, by House Committee on Transportation (originally sponsored by Representatives Fagan, Schmick, Armstrong, Clibborn, Lias, Frockt and Moeller)

Adding to the scenic and recreational highway system.

The measure was read the second time.

MOTION

On motion of Senator Eide, the rules were suspended, Substitute House Bill No. 1024 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 Substitute House Bill No. 1024.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1024 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1024, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1774, by House Committee on Early Learning & Human Services (originally sponsored by Representatives Goodman, Pettigrew, Orwall, Kenney, Roberts, Kagi and Moscoso)

Recognizing adopted siblings and adoptive parents as relatives. Revised for 1st Substitute: Recognizing adopted siblings and half siblings as relatives and adoptive parents of siblings or half siblings as suitable persons in adoption and dependency proceedings. (REVISED FOR ENGROSSED: Concerning suitable persons with which a child in a dependency matter may be placed.)

The measure was read the second time.

MOTION

On motion of Senator White, Senator Brown was excused.

MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be not adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 13.34.130 and 2010 c 288 s 1 are each amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030 after consideration of the social study prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition (~~other than removal of the child from~~) that maintains the child in his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In determining the disposition, the court should choose services to assist the parents in maintaining the child in the home, including housing assistance, if appropriate, that least interfere with family autonomy and are adequate to protect the child.

(b)(i) Order the child to be removed from his or her home and into the custody, control, and care of a relative or other suitable person, the department, or a supervising agency for supervision of the child's placement. The court may not order an Indian child, as defined in 25 U.S.C. Sec. 1903, to be removed from his or her home unless the court finds, by clear and convincing evidence including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(ii) The department or supervising agency has the authority to place the child, subject to review and approval by the court (A) with a relative as defined in RCW 74.15.020(2)(a), (B) in the home of another suitable person if the child or family has a preexisting relationship with that person, and the person has completed all required criminal history background checks and otherwise appears to the department or supervising agency to be suitable and competent to provide care for the child, or (C) in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW.

(iii) The department may also consider placing the child, subject to review and approval by the court, with a person with whom the child's sibling or half-sibling is residing or a person who has adopted the sibling or half-sibling of the child being placed as long as the person has completed all required criminal history background checks and otherwise appears to the department or supervising agency to be competent to provide care for the child.

(2) Absent good cause, the department or supervising agency shall follow the wishes of the natural parent regarding the placement of the child in accordance with RCW 13.34.260.

(3) The department or supervising agency may only place a child with a person not related to the child as defined in RCW 74.15.020(2)(a), including a placement provided for in subsection (1)(b)(iii) of this section, when the court finds that such placement is

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in the best interest of the child. Unless there is reasonable cause to believe that the health, safety, or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, the child shall be placed with a person who is willing, appropriate, and available to care for the child, and who is: (I) Related to the child as defined in RCW 74.15.020(2)(a) with whom the child has a relationship and is comfortable; or (II) a suitable person as described in ~~((his))~~ subsection (1)(b) of this section. The court shall consider the child's existing relationships and attachments when determining placement.

~~((2))~~ (4) When placing an Indian child in out-of-home care, the department or supervising agency shall follow the placement preference characteristics in RCW 13.34.250 and in 25 U.S.C. Sec. 1915.

~~((3))~~ (5) Placement of the child with a relative or other suitable person as described in subsection (1)(b) of this section shall be given preference by the court. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services, including housing assistance, that have been provided to the child and the child's parent, guardian, or legal custodian, and that preventive services have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home, and that:

(a) There is no parent or guardian available to care for such child;

(b) The parent, guardian, or legal custodian is not willing to take custody of the child; or

(c) The court finds, by clear, cogent, and convincing evidence, a manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger.

~~((4))~~ (6) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court shall consider whether it is in a child's best interest to be placed with, have contact with, or have visits with siblings.

(a) There shall be a presumption that such placement, contact, or visits are in the best interests of the child provided that:

(i) The court has jurisdiction over all siblings subject to the order of placement, contact, or visitation pursuant to petitions filed under this chapter or the parents of a child for whom there is no jurisdiction are willing to agree; and

(ii) There is no reasonable cause to believe that the health, safety, or welfare of any child subject to the order of placement, contact, or visitation would be jeopardized or that efforts to reunite the parent and child would be hindered by such placement, contact, or visitation. In no event shall parental visitation time be reduced in order to provide sibling visitation.

(b) The court may also order placement, contact, or visitation of a child with a step-brother or step-sister provided that in addition to the factors in (a) of this subsection, the child has a relationship and is comfortable with the step-sibling.

~~((5))~~ (7) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section and placed into nonparental or nonrelative care, the court shall order a placement that allows the child to remain in the same school he or she attended prior to the initiation of the dependency proceeding when such a placement is practical and in the child's best interest.

~~((6))~~ (8) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the requirements of RCW 13.34.132 are met.

~~((7))~~ (9) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative or other suitable person, the child shall remain in foster care and the court shall direct the department or supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative or other person appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives or other suitable persons, pursuant to this section, shall be contingent upon cooperation by the relative or other suitable person with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's or other suitable person's home, subject to review by the court.

Sec. 2. RCW 13.34.215 and 2010 c 180 s 4 are each amended to read as follows:

(1) A child may petition the juvenile court to reinstate the previously terminated parental rights of his or her parent under the following circumstances:

(a) The child was previously found to be a dependent child under this chapter;

(b) The child's parent's rights were terminated in a proceeding under this chapter;

(c)(i) The child has not achieved his or her permanency plan ~~((within three years of a final order of termination));~~ or

(ii) While the child achieved a permanency plan, it has not since been sustained;

(d) Three years have passed since the final order of termination was entered; and

~~((d))~~ (e) The child must be at least twelve years old at the time the petition is filed. Upon the child's motion for good cause shown, or on its own motion, the court may hear a petition filed by a child younger than twelve years old.

(2) If the child is eligible to petition the juvenile court under subsection (1) of this section and a parent whose rights have been previously terminated contacts the department or supervising agency or the child's guardian ad litem regarding reinstatement, the department or supervising agency or the guardian ad litem must notify the eligible child about his or her right to petition for reinstatement of parental rights.

(3) A child seeking to petition under this section shall be provided counsel at no cost to the child.

(4) The petition must be signed by the child in the absence of a showing of good cause as to why the child could not do so.

(5) If, after a threshold hearing to consider the parent's apparent fitness and interest in reinstatement of parental rights, the court finds by a preponderance of the evidence that the best interests of the child may be served by reinstatement of parental rights, the juvenile court shall order that a hearing on the merits of the petition be held.

(6) The court shall give prior notice for any proceeding under this section, or cause prior notice to be given, to the department or the supervising agency, the child's attorney, and the child. The court shall also order the department or supervising agency to give prior notice of any hearing to the child's former parent whose parental rights are the subject of the petition, any parent whose rights have not been terminated, the child's current foster parent, relative caregiver, guardian or custodian, and the child's tribe, if applicable.

(7) The juvenile court shall conditionally grant the petition if it finds by clear and convincing evidence that the child has not achieved his or her permanency plan and is not likely to imminently achieve his or her permanency plan and that reinstatement of parental rights is in the child's best interest. In determining whether reinstatement is in the child's best interest the court shall consider, but is not limited to, the following:

(a) Whether the parent whose rights are to be reinstated is a fit parent and has remedied his or her deficits as provided in the record of the prior termination proceedings and prior termination order;

(b) The age and maturity of the child, and the ability of the child to express his or her preference;

(c) Whether the reinstatement of parental rights will present a risk to the child's health, welfare, or safety; and

(d) Other material changes in circumstances, if any, that may have occurred which warrant the granting of the petition.

(8) In determining whether the child has or has not achieved his or her permanency plan or whether the child is likely to achieve his or her permanency plan, the department or supervising agency shall provide the court, and the court shall review, information related to any efforts to achieve the permanency plan including efforts to achieve adoption or a permanent guardianship.

(9)(a) If the court conditionally grants the petition under subsection (7) of this section, the case will be continued for six months and a temporary order of reinstatement entered. During this period, the child shall be placed in the custody of the parent. The department or supervising agency shall develop a permanency plan for the child reflecting the plan to be reunification and shall provide transition services to the family as appropriate.

(b) If the child must be removed from the parent due to abuse or neglect allegations prior to the expiration of the conditional six-month period, the court shall dismiss the petition for reinstatement of parental rights if the court finds the allegations have been proven by a preponderance of the evidence.

(c) If the child has been successfully placed with the parent for six months, the court order reinstating parental rights remains in effect and the court shall dismiss the dependency.

(10) After the child has been placed with the parent for six months, the court shall hold a hearing. If the placement with the parent has been successful, the court shall enter a final order of reinstatement of parental rights, which shall restore all rights, powers, privileges, immunities, duties, and obligations of the parent as to the child, including those relating to custody, control, and support of the child. The court shall dismiss the dependency and direct the clerk's office to provide a certified copy of the final order of reinstatement of parental rights to the parent at no cost.

(11) The granting of the petition under this section does not vacate or otherwise affect the validity of the original termination order.

(12) Any parent whose rights are reinstated under this section shall not be liable for any child support owed to the department pursuant to RCW 13.34.160 or Title 26 RCW or costs of other services provided to a child for the time period from the date of termination of parental rights to the date parental rights are reinstated.

(13) A proceeding to reinstate parental rights is a separate action from the termination of parental rights proceeding and does not vacate the original termination of parental rights. An order granted under this section reinstates the parental rights to the child. This reinstatement is a recognition that the situation of the parent and child have changed since the time of the termination of parental rights and reunification is now appropriate.

(14) This section is retroactive and applies to any child who is under the jurisdiction of the juvenile court at the time of the hearing regardless of the date parental rights were terminated.

(15) The state, the department, the supervising agency, and its employees are not liable for civil damages resulting from any act or omission in the provision of services under this section, unless the act or omission constitutes gross negligence. This section does not create any duty and shall not be construed to create a duty where none exists. This section does not create a cause of action against the state, the department, the supervising agency, or its employees concerning the original termination."

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "dependency matters; and amending RCW 13.34.130 and 13.34.215."

The President declared the question before the Senate to be the motion by Senator Hargrove to not adopt the committee striking amendment by the Committee on Human Services & Corrections to Engrossed Substitute House Bill No. 1774.

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

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 13.34.130 and 2010 c 288 s 1 are each amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030 after consideration of the social study prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition (~~other than removal of the child from~~) that maintains the child in his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In determining the disposition, the court should choose services to assist the parents in maintaining the child in the home, including housing assistance, if appropriate, that least interfere with family autonomy and are adequate to protect the child.

(b)(i) Order the child to be removed from his or her home and into the custody, control, and care of a relative or other suitable person, the department, or a supervising agency for supervision of the child's placement. The court may not order an Indian child, as defined in 25 U.S.C. Sec. 1903, to be removed from his or her home unless the court finds, by clear and convincing evidence including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(ii) The department or supervising agency has the authority to place the child, subject to review and approval by the court (A) with a relative as defined in RCW 74.15.020(2)(a), (B) in the home of another suitable person if the child or family has a preexisting relationship with that person, and the person has completed all required criminal history background checks and otherwise appears to the department or supervising agency to be suitable and competent to provide care for the child, or (C) in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW.

(iii) The department may also consider placing the child, subject to review and approval by the court, with a person with whom the child's sibling or half-sibling is residing or a person who has adopted

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the sibling or half-sibling of the child being placed as long as the person has completed all required criminal history background checks and otherwise appears to the department or supervising agency to be competent to provide care for the child.

(2) Absent good cause, the department or supervising agency shall follow the wishes of the natural parent regarding the placement of the child in accordance with RCW 13.34.260.

~~(3)~~ (3) The department or supervising agency may only place a child with a person not related to the child as defined in RCW 74.15.020(2)(a), including a placement provided for in subsection (1)(b)(iii) of this section, when the court finds that such placement is in the best interest of the child. Unless there is reasonable cause to believe that the health, safety, or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, the child shall be placed with a person who is willing, appropriate, and available to care for the child, and who is: (I) Related to the child as defined in RCW 74.15.020(2)(a) with whom the child has a relationship and is comfortable; or (II) a suitable person as described in ~~(the)~~ subsection (1)(b) of this section. The court shall consider the child's existing relationships and attachments when determining placement.

~~(2)~~ (4) When placing an Indian child in out-of-home care, the department or supervising agency shall follow the placement preference characteristics in RCW 13.34.250 and in 25 U.S.C. Sec. 1915.

~~(3)~~ (5) Placement of the child with a relative or other suitable person as described in subsection (1)(b) of this section shall be given preference by the court. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services, including housing assistance, that have been provided to the child and the child's parent, guardian, or legal custodian, and that preventive services have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home, and that:

(a) There is no parent or guardian available to care for such child;

(b) The parent, guardian, or legal custodian is not willing to take custody of the child; or

(c) The court finds, by clear, cogent, and convincing evidence, a manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger.

~~(4)~~ (6) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court shall consider whether it is in a child's best interest to be placed with, have contact with, or have visits with siblings.

(a) There shall be a presumption that such placement, contact, or visits are in the best interests of the child provided that:

(i) The court has jurisdiction over all siblings subject to the order of placement, contact, or visitation pursuant to petitions filed under this chapter or the parents of a child for whom there is no jurisdiction are willing to agree; and

(ii) There is no reasonable cause to believe that the health, safety, or welfare of any child subject to the order of placement, contact, or visitation would be jeopardized or that efforts to reunite the parent and child would be hindered by such placement, contact, or visitation. In no event shall parental visitation time be reduced in order to provide sibling visitation.

(b) The court may also order placement, contact, or visitation of a child with a step-brother or step-sister provided that in addition to the factors in (a) of this subsection, the child has a relationship and is comfortable with the step-sibling.

~~(5)~~ (7) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section and placed into nonparental or nonrelative care, the court shall order a placement that allows the child to remain in the same school he or she attended prior to the initiation of the dependency proceeding when such a placement is practical and in the child's best interest.

~~(6)~~ (8) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the requirements of RCW 13.34.132 are met.

~~(7)~~ (9) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative or other suitable person, the child shall remain in foster care and the court shall direct the department or supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative or other person appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives or other suitable persons, pursuant to this section, shall be contingent upon cooperation by the relative or other suitable person with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's or other suitable person's home, subject to review by the court.

Sec. 2. RCW 13.34.215 and 2010 c 180 s 4 are each amended to read as follows:

(1) A child may petition the juvenile court to reinstate the previously terminated parental rights of his or her parent under the following circumstances:

(a) The child was previously found to be a dependent child under this chapter;

(b) The child's parent's rights were terminated in a proceeding under this chapter;

(c)(i) The child has not achieved his or her permanency plan ~~(within three years of a final order of termination)~~; or

(ii) While the child achieved a permanency plan, it has not since been sustained;

(d) Three years have passed since the final order of termination was entered; and

~~(4)~~ (e) The child must be at least twelve years old at the time the petition is filed. Upon the child's motion for good cause shown, or on its own motion, the court may hear a petition filed by a child younger than twelve years old.

(2) If the child is eligible to petition the juvenile court under subsection (1) of this section and a parent whose rights have been previously terminated contacts the department or supervising agency or the child's guardian ad litem regarding reinstatement, the department or supervising agency or the guardian ad litem must notify the eligible child about his or her right to petition for reinstatement of parental rights.

(3) A child seeking to petition under this section shall be provided counsel at no cost to the child.

(4) The petition must be signed by the child in the absence of a showing of good cause as to why the child could not do so.

(5) If, after a threshold hearing to consider the parent's apparent fitness and interest in reinstatement of parental rights, the court finds by a preponderance of the evidence that the best interests of the child may be served by reinstatement of parental rights, the juvenile court shall order that a hearing on the merits of the petition be held.

(6) The court shall give prior notice for any proceeding under this section, or cause prior notice to be given, to the department or the supervising agency, the child's attorney, and the child. The court shall also order the department or supervising agency to give prior notice of any hearing to the child's former parent whose parental rights are the subject of the petition, any parent whose rights have not been terminated, the child's current foster parent, relative caregiver, guardian or custodian, and the child's tribe, if applicable.

(7) The juvenile court shall conditionally grant the petition if it finds by clear and convincing evidence that the child has not achieved his or her permanency plan and is not likely to imminently achieve his or her permanency plan and that reinstatement of parental rights is in the child's best interest. In determining whether reinstatement is in the child's best interest the court shall consider, but is not limited to, the following:

(a) Whether the parent whose rights are to be reinstated is a fit parent and has remedied his or her deficits as provided in the record of the prior termination proceedings and prior termination order;

(b) The age and maturity of the child, and the ability of the child to express his or her preference;

(c) Whether the reinstatement of parental rights will present a risk to the child's health, welfare, or safety; and

(d) Other material changes in circumstances, if any, that may have occurred which warrant the granting of the petition.

(8) In determining whether the child has or has not achieved his or her permanency plan or whether the child is likely to achieve his or her permanency plan, the department or supervising agency shall provide the court, and the court shall review, information related to any efforts to achieve the permanency plan including efforts to achieve adoption or a permanent guardianship.

(9)(a) If the court conditionally grants the petition under subsection (7) of this section, the case will be continued for six months and a temporary order of reinstatement entered. During this period, the child shall be placed in the custody of the parent. The department or supervising agency shall develop a permanency plan for the child reflecting the plan to be reunification and shall provide transition services to the family as appropriate.

(b) If the child must be removed from the parent due to abuse or neglect allegations prior to the expiration of the conditional six-month period, the court shall dismiss the petition for reinstatement of parental rights if the court finds the allegations have been proven by a preponderance of the evidence.

(c) If the child has been successfully placed with the parent for six months, the court order reinstating parental rights remains in effect and the court shall dismiss the dependency.

(10) After the child has been placed with the parent for six months, the court shall hold a hearing. If the placement with the parent has been successful, the court shall enter a final order of reinstatement of parental rights, which shall restore all rights, powers, privileges, immunities, duties, and obligations of the parent as to the child, including those relating to custody, control, and support of the child. The court shall dismiss the dependency and direct the clerk's office to provide a certified copy of the final order of reinstatement of parental rights to the parent at no cost.

(11) The granting of the petition under this section does not vacate or otherwise affect the validity of the original termination order.

(12) Any parent whose rights are reinstated under this section shall not be liable for any child support owed to the department pursuant to RCW 13.34.160 or Title 26 RCW or costs of other services provided to a child for the time period from the date of termination of parental rights to the date parental rights are reinstated.

(13) A proceeding to reinstate parental rights is a separate action from the termination of parental rights proceeding and does not

vacate the original termination of parental rights. An order granted under this section reinstates the parental rights to the child. This reinstatement is a recognition that the situation of the parent and child have changed since the time of the termination of parental rights and reunification is now appropriate.

(14) This section is retroactive and applies to any child who is under the jurisdiction of the juvenile court at the time of the hearing regardless of the date parental rights were terminated.

(15) The state, the department, the supervising agency, and its employees are not liable for civil damages resulting from any act or omission in the provision of services under this section, unless the act or omission constitutes gross negligence. This section does not create any duty and shall not be construed to create a duty where none exists. This section does not create a cause of action against the state, the department, the supervising agency, or its employees concerning the original termination.

Sec. 3. RCW 26.33.070 and 1984 c 155 s 7 are each amended to read as follows:

(1) The court shall appoint a guardian ad litem for any parent or alleged father under eighteen years of age in any proceeding under this chapter. The court may appoint a guardian ad litem for a child adoptee or any incompetent party in any proceeding under this chapter. The guardian ad litem for a parent or alleged father, in addition to determining what is in the best interest of the party, shall make an investigation and report to the court concerning whether any written consent to adoption or petition for relinquishment signed by the parent or alleged father was signed voluntarily and with an understanding of the consequences of the action. If the child to be relinquished is a dependent child under chapter 13.34 RCW and the minor parent is represented by an attorney or guardian ad litem in the dependency proceeding, the court may rely on the minor parent's dependency court attorney or guardian ad litem to make a report to the court as provided in this subsection.

(2) The court in the county in which a petition is filed shall direct who shall pay the fees of a guardian ad litem or attorney appointed under this chapter and shall approve the payment of the fees. If the court orders the parties to pay the fees of the guardian ad litem, the fees must be established pursuant to the procedures in RCW 26.12.183.

Sec. 4. RCW 26.09.220 and 1993 c 289 s 1 are each amended to read as follows:

(1)(a) The court may order an investigation and report concerning parenting arrangements for the child, or may appoint a guardian ad litem pursuant to RCW 26.12.175, or both. The investigation and report may be made by the guardian ad litem, court-appointed special advocate, the staff of the juvenile court, or other professional social service organization experienced in counseling children and families.

(b) An investigator is a person appointed as an investigator under RCW 26.12.050(1)(b) or any other third-party professional ordered or appointed by the court to provide an opinion, assessment, or evaluation regarding the creation or modification of a parenting plan.

(2) In preparing the report concerning a child, the investigator or person appointed under subsection (1) of this section may consult any person who may have information about the child and the potential parenting or custodian arrangements. Upon order of the court, the investigator or person appointed under subsection (1) of this section may refer the child to professional personnel for diagnosis. The investigator or person appointed under subsection (1) of this section may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the parent or the child's custodian; but the child's consent must be obtained if the child has reached the age of twelve, unless the court finds that the child lacks mental capacity to consent. If the requirements of

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subsection (3) of this section are fulfilled, the ~~((investigator's))~~ report by the investigator or person appointed under subsection (1) of this section may be received in evidence at the hearing.

(3) The investigator or person appointed under subsection (1) of this section shall ~~((mail the investigator's))~~ provide his or her report to counsel and to any party not represented by counsel at least ten days prior to the hearing unless a shorter time is ordered by the court for good cause shown. The investigator or person appointed under subsection (1) of this section shall make available to counsel and to any party not represented by counsel ~~((the investigator's))~~ his or her file of underlying data and reports, complete texts of diagnostic reports made to the investigator or appointed person pursuant to the provisions of subsection (2) of this section, and the names and addresses of all persons whom ~~((the investigator))~~ he or she has consulted. Any party to the proceeding may call the investigator or person appointed under subsection (1) of this section and any person whom the investigator or appointed person has consulted for cross-examination. A party may not waive the right of cross-examination prior to the hearing.

NEW SECTION. Sec. 5. A new section is added to chapter 26.12 RCW to read as follows:

(1) The court may appoint an investigator in addition to a guardian ad litem or court-appointed special advocate under RCW 26.12.175 and 26.12.177 to assist the court and make recommendations.

(2) An investigator is a person appointed as an investigator under RCW 26.12.050(1)(b) or any other third-party professional ordered or appointed by the court to provide an opinion, assessment, or evaluation regarding the creation or modification of a parenting plan.

(3) Investigators who are not supervised by a guardian ad litem or by a court-appointed special advocate program must comply with the training requirements applicable to guardians ad litem or court-appointed special advocates as provided under this chapter and court rule.

Sec. 6. RCW 26.12.175 and 2009 c 480 s 3 are each amended to read as follows:

(1)(a) The court may appoint a guardian ad litem to represent the interests of a minor or dependent child when the court believes the appointment of a guardian ad litem is necessary to protect the best interests of the child in any proceeding under this chapter. The court may appoint a guardian ad litem from the court-appointed special advocate program, if that program exists in the county. The court shall attempt to match a child with special needs with a guardian ad litem who has specific training or education related to the child's individual needs. The family court services professionals may also make a recommendation to the court regarding whether a guardian ad litem should be appointed for the child.

(b) The guardian ad litem's role is to investigate and report factual information regarding the issues ordered to be reported or investigated to the court. The guardian ad litem shall always represent the best interests of the child. Guardians ad litem ~~((and investigators))~~ under this title may make recommendations based upon his or her investigation, which the court may consider and weigh in conjunction with the recommendations of all of the parties. If a child expresses a preference regarding the parenting plan, the guardian ad litem shall report the preferences to the court, together with the facts relative to whether any preferences are being expressed voluntarily and the degree of the child's understanding. The court may require the guardian ad litem to provide periodic reports to the parties regarding the status of his or her investigation. The guardian ad litem shall file his or her report at least sixty days prior to trial.

(c) The parties to the proceeding may file with the court written responses to any report filed by the guardian ad litem ~~((or investigator))~~. The court shall consider any written responses to a report filed by the guardian ad litem ~~((or investigator))~~, including any factual information or recommendations provided in the report.

(d) The court shall enter an order for costs, fees, and disbursements to cover the costs of the guardian ad litem. The court may order either or both parents to pay for the costs of the guardian ad litem, according to their ability to pay. If both parents are indigent, the county shall bear the cost of the guardian, subject to appropriation for guardians' ad litem services by the county legislative authority. Guardians ad litem who are not volunteers shall provide the parties with an itemized accounting of their time and billing for services each month.

(2)(a) If the guardian ad litem appointed is from the county court-appointed special advocate program, the program shall supervise any guardian ad litem assigned to the case. The court-appointed special advocate program shall be entitled to notice of all proceedings in the case.

(b) The legislative authority of each county may authorize creation of a court-appointed special advocate program. The county legislative authority may adopt rules of eligibility for court-appointed special advocate program services that are not inconsistent with this section.

(3) Each guardian ad litem program for compensated guardians ad litem and each court-appointed special advocate program shall maintain a background information record for each guardian ad litem in the program. The background information record shall include, but is not limited to, the following information:

- (a) Level of formal education;
- (b) General training related to the guardian ad litem's duties;
- (c) Specific training related to issues potentially faced by children in dissolution, custody, paternity, and other family law proceedings;
- (d) Specific training or education related to child disability or developmental issues;
- (e) Number of years' experience as a guardian ad litem;
- (f) Number of appointments as a guardian ad litem and county or counties of appointment;
- (g) The names of any counties in which the person was removed from a guardian ad litem registry pursuant to a grievance action, and the name of the court and the cause number of any case in which the court has removed the person for cause;

(h) Founded allegations of abuse or neglect as defined in RCW 26.44.020;

(i) The results of an examination that shall consist of a background check as allowed through the Washington state criminal records privacy act under RCW 10.97.050 and the Washington state patrol criminal identification system under RCW 43.43.832 through 43.43.834. This background check shall be done through the Washington state patrol criminal identification section; and

(j) Criminal history, as defined in RCW 9.94A.030, for the period covering ten years prior to the appointment.

The background information record shall be updated annually. As a condition of appointment, the guardian ad litem's background information record shall be made available to the court. If the appointed guardian ad litem is not a member of a guardian ad litem program the person appointed as guardian ad litem shall provide the background information record to the court.

Upon appointment, the guardian ad litem, court-appointed special advocate program or guardian ad litem program, shall provide the parties or their attorneys with a copy of the background information record. The portion of the background information record containing the results of the criminal background check and the criminal history shall not be disclosed to the parties or their

attorneys. The background information record shall not include identifying information that may be used to harm a guardian ad litem, such as home addresses and home telephone numbers, and for volunteer guardians ad litem the court may allow the use of maiden names or pseudonyms as necessary for their safety.

(4) When a court-appointed special advocate or volunteer guardian ad litem is requested on a case, the program shall give the court the name of the person it recommends. The court shall immediately appoint the person recommended by the program.

(5) If a party in a case reasonably believes the court-appointed special advocate or volunteer guardian ad litem is inappropriate or unqualified, the party may request a review of the appointment by the program. The program must complete the review within five judicial days and remove any appointee for good cause. If the party seeking the review is not satisfied with the outcome of the review, the party may file a motion with the court for the removal of the court-appointed special advocate or volunteer guardian ad litem on the grounds the advocate or volunteer is inappropriate or unqualified.

Sec. 7. RCW 26.12.177 and 2009 c 480 s 4 are each amended to read as follows:

(1) All guardians ad litem (~~(and investigators)~~) appointed under this title must comply with the training requirements established under RCW 2.56.030(15), prior to their appointment in cases under Title 26 RCW, except that volunteer guardians ad litem or court-appointed special advocates may comply with alternative training requirements approved by the administrative office of the courts that meet or exceed the statewide requirements. In cases involving allegations of limiting factors under RCW 26.09.191, the guardians ad litem (~~(and investigators)~~) appointed under this title must have additional relevant training under RCW 2.56.030(15) (~~(and as recommended under RCW 2.53.040.)~~) when it is available.

(2)(a) Each guardian ad litem program for compensated guardians ad litem shall establish a rotational registry system for the appointment of guardians ad litem (~~(and investigators)~~) under this title. If a judicial district does not have a program the court shall establish the rotational registry system. Guardians ad litem (~~(and investigators)~~) under this title shall be selected from the registry except in exceptional circumstances as determined and documented by the court. The parties may make a joint recommendation for the appointment of a guardian ad litem from the registry.

(b) In judicial districts with a population over one hundred thousand, a list of three names shall be selected from the registry and given to the parties along with the background information record as specified in RCW 26.12.175(3), including their hourly rate for services. Each party may, within three judicial days, strike one name from the list. If more than one name remains on the list, the court shall make the appointment from the names on the list. In the event all three names are stricken the person whose name appears next on the registry shall be appointed.

(c) If a party reasonably believes that the appointed guardian ad litem is inappropriate or unqualified, charges an hourly rate higher than what is reasonable for the particular proceeding, or has a conflict of interest, the party may, within three judicial days from the appointment, move for substitution of the appointed guardian ad litem by filing a motion with the court.

(d) Under this section, within either registry referred to in (a) of this subsection, a subregistry may be created that consists of guardians ad litem under contract with the department of social and health services' division of child support. Guardians ad litem on such a subregistry shall be selected and appointed in state-initiated paternity cases only.

(e) The superior court shall remove any person from the guardian ad litem registry who has been found to have misrepresented his or her qualifications.

(3) The rotational registry system shall not apply to court-appointed special advocate programs."

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 and Stevens to Engrossed Substitute House Bill No. 1774.

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 "Relating to" strike the remainder of the title and insert "dependency matters; amending RCW 13.34.130, 13.34.215, 26.33.070, 26.09.220, 26.12.175, and 26.12.177; and adding a new section to chapter 26.12 RCW."

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Substitute House Bill No. 1774 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1774 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1774 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Brown

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1774 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1190, by Representatives Hinkle, Kelley, Van De Wege, Liias and Stanford

Concerning billing for anatomic pathology services.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, House Bill No. 1190 was advanced to third reading, the second

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

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

The President declared the question before the Senate to be the final passage of House Bill No. 1190.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1190 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Brown

HOUSE BILL NO. 1190, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1731, by House Committee on Local Government (originally sponsored by Representatives Takko, Kagi and Reykdal)

Concerning the formation, operation, and governance of regional fire protection service authorities.

The measure was read the second time.

MOTION

On motion of Senator Pridemore, the rules were suspended, Engrossed Substitute House Bill No. 1731 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1731.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1731 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter and Stevens

Excused: Senator Brown

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1731, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1614, by House Committee on Early Learning & Human Services (originally sponsored by Representatives Dickerson, Rodne, Hope, Goodman, Walsh, Roberts, Green, McCoy, Blake, Kagi, Dunshee, Springer, Appleton, Seaquist, Johnson, Jinkins, Lias, Kelley, Rolfes, Maxwell, Van De Wege and Kenney)

Concerning the traumatic brain injury strategic partnership.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 1614 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1614.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1614 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Brown

SUBSTITUTE HOUSE BILL NO. 1614, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1509, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Blake, Dunshee and Ryu)

Concerning the forestry riparian easement program.

The measure was read the second time.

MOTION

Senator Ranker moved that the following committee striking amendment by the Committee on Natural Resources & Marine Waters be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 76.13.120 and 2004 c 102 s 1 are each amended to read as follows:

(1) The legislature finds that the state should acquire easements primarily along riparian and other sensitive aquatic areas from qualifying small forest landowners willing to sell or donate such easements to the state provided that the state will not be required to acquire such easements if they are subject to unacceptable liabilities. The legislature therefore establishes a forestry riparian easement program.

(2) The definitions in this subsection apply throughout this section and RCW 76.13.100 ~~(and)~~, 76.13.110, 76.13.140, and 76.13.160 unless the context clearly requires otherwise.

(a) "Forestry riparian easement" means an easement covering qualifying timber granted voluntarily to the state by a qualifying small forest landowner.

(b) "Qualifying small forest landowner" means a landowner meeting all of the following characteristics as of the date the department offers compensation for a forestry riparian easement:

(i) Is a small forest landowner as defined in (d) of this subsection; and

(ii) Is an individual, partnership, corporation, or other nongovernmental for-profit legal entity.

(c) "Qualifying timber" means those forest trees for which the small forest landowner is willing to grant the state a forestry riparian easement and must meet all of the following:

(i) The forest trees are covered by a forest practices application that the small forest landowner is required to leave unharvested under the rules adopted under RCW 76.09.055 and 76.09.370 or that is made uneconomic to harvest by those rules ~~(and for which the small landowner is willing to grant the state a forestry riparian easement. "Qualifying timber" is timber);~~

(ii) The forest trees are within or bordering a commercially reasonable harvest unit as determined under rules adopted by the forest practices board, or ~~(timber)~~ for which an approved forest practices application for timber harvest cannot be obtained because of restrictions under the forest practices rules;

(iii) The forest trees are located within, or affected by forest practices rules pertaining to any one, or all, of the following:

(A) Riparian or other sensitive aquatic areas;

(B) Channel migration zones; or

(C) Areas of potentially unstable slopes or landforms, verified by the department, and must meet all of the following:

(I) Are addressed in a forest practices application;

(II) Are adjacent to a commercially reasonable harvest area; and

(III) Have the potential to deliver sediment or debris to a public resource or threaten public safety.

~~((e))~~ (d) "Small forest landowner" means a landowner meeting all of the following characteristics:

(i) A forest landowner as defined in RCW 76.09.020 whose interest in the land and timber is in fee or who has rights to the timber to be included in the forestry riparian easement that extend at least fifty years from the date the ~~((forest practices))~~ completed forestry riparian easement application associated with the easement is submitted;

(ii) An entity that has harvested from its own lands in this state during the three years prior to the year of application an average timber volume that would qualify the owner as a small harvester under RCW 84.33.035; and

(iii) An entity that certifies at the time of application that it does not expect to harvest from its own lands more than the volume allowed by RCW 84.33.035 during the ten years following application. If a landowner's prior three-year average harvest exceeds the limit of RCW 84.33.035, or the landowner expects to exceed this limit during the ten years following application, and that

landowner establishes to the ~~((department of natural resources))~~ department's reasonable satisfaction that the harvest limits were or will be exceeded to raise funds to pay estate taxes or equally compelling and unexpected obligations such as court-ordered judgments or extraordinary medical expenses, the landowner shall be deemed to be a small forest landowner. For purposes of determining whether a person qualifies as a small forest landowner, the small forest landowner office, created in RCW 76.13.110, shall evaluate the landowner under this definition, pursuant to RCW 76.13.160, as of the date that the forest practices application is submitted ~~((or the date the landowner notifies the department that the harvest is to begin with which the forestry riparian easement is associated))~~ and the date that the department offers compensation for the forestry riparian easement. A small forest landowner can include an individual, partnership, ~~((corporate))~~ corporation, or other nongovernmental legal entity. If a landowner grants timber rights to another entity for less than five years, the landowner may still qualify as a small forest landowner under this section. If a landowner is unable to obtain an approved forest practices application for timber harvest for any of his or her land because of restrictions under the forest practices rules, the landowner may still qualify as a small forest landowner under this section.

~~((d))~~ (e) "Completion of harvest" means that the trees have been harvested from an area and that further entry into that area by mechanized logging or slash treating equipment is not expected.

(3) The department ~~((of natural resources))~~ is authorized and directed to accept and hold in the name of the state of Washington forestry riparian easements granted by qualifying small forest landowners covering qualifying timber and to pay compensation to such landowners in accordance with ~~((subsections (6) and (7) of))~~ this section. The department ~~((of natural resources))~~ may not transfer the easements to any entity other than another state agency.

(4) Forestry riparian easements shall be effective for fifty years from the date ~~((the forest practices application associated with the qualifying timber is submitted to the department of natural resources))~~ of the completed forestry riparian easement application, unless the easement is voluntarily terminated earlier by the department ~~((of natural resources voluntarily)),~~ based on a determination that termination is in the best interest of the state, or under the terms of a termination clause in the easement.

(5) Forestry riparian easements shall be restrictive only, and shall preserve all lawful uses of the easement premises by the landowner that are consistent with the terms of the easement and the requirement to protect riparian functions during the term of the easement, subject to the restriction that the leave trees required by the rules to be left on the easement premises may not be cut during the term of the easement. No right of public access to or across, or any public use of the easement premises is created by this statute or by the easement. Forestry riparian easements shall not be deemed to trigger the compensating tax of or otherwise disqualify land from being taxed under chapter 84.33 or 84.34 RCW.

(6) ~~((Upon application of a small forest landowner for a riparian easement that is associated with a forest practices application and the landowner's marking of the qualifying timber on the qualifying lands, the small forest landowner office shall determine the compensation to be offered to the small forest landowner as provided for in this section. The small forest landowner office shall also determine the compensation to be offered to a small forest landowner for qualifying timber for which an approved forest practices application for timber harvest cannot be obtained because of restrictions under the forest practices rules. The legislature recognizes that there is not readily available market transaction evidence of value for easements of this nature, and thus establishes the following methodology to ascertain the value for forestry riparian easements. Values so determined shall not be considered competent evidence of value for any other purpose.~~

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The small forest landowner office shall establish the volume of the qualifying timber. Based on that volume and using data obtained or maintained by the department of revenue under RCW 84.33.074 and 84.33.091, the small forest landowner office shall attempt to determine the fair market value of the qualifying timber as of the date the forest practices application associated with the qualifying timber was submitted or the date the landowner notifies the department that the harvest is to begin. Removal of any qualifying timber before the expiration of the easement must be in accordance with the forest practices rules and the terms of the easement. There shall be no reduction in compensation for reentry)) The small forest landowner office shall determine what constitutes a completed application for a forestry riparian easement. Such an application shall, at a minimum, include documentation of the owner's status as a qualifying small forest landowner, identification of location and the types of qualifying timber, and notification of completion of harvest, if applicable.

(7) ((Except as provided in subsection (8) of this section, the small forest landowner office shall, subject to available funding, offer compensation to the small forest landowner in the amount of fifty percent of the value determined in subsection (6) of this section, plus the compliance and reimbursement costs as determined in accordance with RCW 76.13.140. If the landowner accepts the offer for qualifying timber that will be harvested pursuant to an approved forest practices application, the department of natural resources shall pay the compensation promptly upon (a) completion of harvest in the area covered by the forestry riparian easement; (b) verification that there has been compliance with the rules requiring leave trees in the easement area; and (c) execution and delivery of the easement to the department of natural resources. If the landowner accepts the offer for qualifying timber for which an approved forest practices application for timber harvest cannot be obtained because of restrictions under the forest practices rules, the department of natural resources shall pay the compensation promptly upon (i) verification that there has been compliance with the rules requiring leave trees in the easement area; and (ii) execution and delivery of the easement to the department of natural resources. Upon donation or payment of compensation, the department of natural resources may record the easement.

(8)) Upon receipt of the qualifying small forest landowner's forestry riparian easement application, and subject to the availability of amounts appropriated for this specific purpose, the following must occur:

(a) The small forest landowner office shall determine the compensation to be offered to the qualifying small forest landowner for qualifying timber after the department accepts the completed forestry riparian easement application and the landowner has completed marking the boundary of the area containing the qualifying timber. The legislature recognizes that there is not readily available market transaction evidence of value for easements of the nature required by this section, and thus establishes the methodology provided in this subsection to ascertain the value for forestry riparian easements. Values so determined may not be considered competent evidence of value for any other purpose.

(b) The small forest landowner office, subject to the availability of amounts appropriated for this specific purpose, is responsible for assessing the volume of qualifying timber. However, no more than fifty percent of the total amounts appropriated for the forestry riparian easement program may be applied to determine the volume of qualifying timber for completed forestry riparian easement applications. Based on the volume established by the small forest landowner office and using data obtained or maintained by the department of revenue under RCW 84.33.074 and 84.33.091, the small forest landowner office shall attempt to determine the fair market value of the qualifying timber as of the date the complete

forestry riparian easement application is received. Removal of any qualifying timber before the expiration of the easement must be in accordance with the forest practices rules and the terms of the easement. There shall be no reduction in compensation for reentry.

(8)(a) Except as provided in subsection (9) of this section and subject to the availability of amounts appropriated for this specific purpose, the small forest landowner office shall offer compensation for qualifying timber to the qualifying small forest landowner in the amount of fifty percent of the value determined by the small forest landowner office, plus the compliance and reimbursement costs as determined in accordance with RCW 76.13.140. However, compensation for any qualifying small forest landowner for qualifying timber located on potentially unstable slopes or landforms may not exceed a total of fifty thousand dollars during any biennial funding period.

(b) If the landowner accepts the offer for qualifying timber, the department shall pay the compensation promptly upon:

(i) Completion of harvest in the area within a commercially reasonable harvest unit with which the forestry riparian easement is associated under an approved forest practices application, unless an approved forest practices application for timber harvest cannot be obtained because of restrictions under the forest practices rules;

(ii) Verification that the landowner has no outstanding violations under chapter 76.09 RCW or any associated rules; and

(iii) Execution and delivery of the easement to the department.

(c) Upon donation or payment of compensation, the department may record the easement.

(9) For approved forest practices applications ((where)) for which the regulatory impact is greater than the average percentage impact for all small forest landowners as determined by an analysis by the department ((of natural resources analysis)) under the regulatory fairness act, chapter 19.85 RCW, the compensation offered will be increased to one hundred percent for that portion of the regulatory impact that is in excess of the average. Regulatory impact includes all trees ((left in buffers, special management zones, and those rendered uneconomic to harvest by these rules)) identified as qualifying timber. A separate average or high impact regulatory threshold shall be established for western and eastern Washington. Criteria for these measurements and payments shall be established by the small forest landowner office.

((9)) (10) The forest practices board shall adopt rules under the administrative procedure act, chapter 34.05 RCW, to implement the forestry riparian easement program, including the following:

(a) A standard version ((or versions of all)) of a forestry riparian easement application as well as all additional documents necessary or advisable to create the forestry riparian easements as provided for in this section;

(b) Standards for descriptions of the easement premises with a degree of precision that is reasonable in relation to the values involved;

(c) Methods and standards for cruises and valuation of forestry riparian easements for purposes of establishing the compensation. The department ((of natural resources)) shall perform the timber cruises of forestry riparian easements required under this chapter and chapter 76.09 RCW. Timber cruises are subject to amounts appropriated for this purpose. However, no more than fifty percent of the total appropriated funding for the forestry riparian easement program may be applied to determine the volume of qualifying timber for completed forestry riparian easement applications. Any rules concerning the methods and standards for valuations of forestry riparian easements shall apply only to the department ((of natural resources)), qualifying small forest landowners, and the small forest landowner office;

(d) A method to determine that a forest practices application involves a commercially reasonable harvest, and adopt criteria for

entering into a ~~((forest))~~ forestry riparian easement where a commercially reasonable harvest is not possible or a forest practices application that has been submitted cannot be approved because of restrictions under the forest practices rules;

(e) A method to address blowdown of qualified timber falling outside the easement premises;

(f) A formula for sharing of proceeds in relation to the acquisition of qualified timber covered by an easement through the exercise or threats of eminent domain by a federal or state agency with eminent domain authority, based on the present value of the ~~((department of natural resources'))~~ department's and the landowner's relative interests in the qualified timber;

(g) High impact regulatory thresholds;

(h) A method to determine timber that is qualifying timber because it is rendered uneconomic to harvest by the rules adopted under RCW 76.09.055 and 76.09.370; ~~((and))~~

(i) A method for internal department ~~((of natural resources))~~ review of small forest landowner office compensation decisions under ~~((subsection (7) of))~~ this section; and

(j) Consistent with section 5 of this act, a method to collect reimbursement from landowners who received compensation for a forestry riparian easement and who, within the first ten years after receipt of compensation for a forestry riparian easement, sells the land on which an easement is located to a nonqualifying landowner.

Sec. 2. RCW 76.13.140 and 2002 c 120 s 3 are each amended to read as follows:

In order to assist small forest landowners to remain economically viable, the legislature intends that the qualifying small forest landowners be able to net fifty percent of the value of the trees left in the buffer areas. The amount of compensation offered in RCW 76.13.120 shall also include the compliance costs for participation in the forestry riparian easement program ~~((For purposes of this section, "compliance costs" includes))~~, including the cost of preparing and recording the forestry riparian easement, and any business and occupation tax and real estate excise tax imposed because of entering into the forestry riparian easement. The small forest landowner office may contract with private consultants that the office finds qualified to perform timber cruises of forestry riparian easements or to lay out streamside buffers and comply with other forest ~~((and fish))~~ practices regulatory requirements related to the ~~((forest))~~ forestry riparian easement program. The department shall reimburse qualifying small forest landowners for the actual costs incurred for laying out the streamside buffers and marking the qualifying timber once a contract has been executed for the forestry riparian easement program. Reimbursement is subject to the work being acceptable to the department. The small forest landowner office shall determine how the reimbursement costs will be calculated.

Sec. 3. RCW 76.13.160 and 2004 c 102 s 2 are each amended to read as follows:

When establishing a ~~((forest))~~ forestry riparian easement program applicant's status as a qualifying small forest landowner pursuant to RCW 76.13.120, the department shall not review the applicant's timber harvest records, or any other tax-related documents, on file with the department of revenue. The department of revenue may confirm or deny an applicant's status as a small forest landowner at the request of the department ~~((;))~~. However, for the purposes of this section, the department of revenue may not disclose more information than whether or not the applicant has reported a harvest or harvests totaling greater than or less than the qualifying thresholds established in RCW 76.13.120. Nothing in this section, or RCW 84.33.280, prohibits the department from reviewing aggregate or general information provided by the department of revenue.

NEW SECTION. Sec. 4. A new section is added to chapter 76.13 RCW to read as follows:

(1) Before November 1st of each even-numbered year, the department must recommend to the governor a list of all forest riparian easement applications to be funded under RCW 76.13.120. The governor must determine the number of applications to receive funding and then submit the list in the capital budget request to the legislature. The list must include, but not be limited to, the date of the forestry riparian easement application, the type of qualifying timber, estimates of the value of the easement, aerial photograph maps of the application area, and an estimate of administrative costs for purchase of easements.

(2) The governor or the legislature may remove an application from the list if there is evidence that the applicant is a nonqualifying landowner for a forestry riparian easement.

NEW SECTION. Sec. 5. A new section is added to chapter 76.13 RCW to read as follows:

If, within the first ten years after receipt of compensation for a forestry riparian easement, a landowner sells the land on which an easement is located to a nonqualifying landowner, then the selling landowner must reimburse the state for the full compensation received for the forestry riparian easement. The department continues to hold, in the name of the state, the forestry riparian easement for the full term of the easement. The department may not transfer the easement to any entity other than another state agency.

NEW SECTION. Sec. 6. (1) The chair of the forest practices board shall invite relevant stakeholders to participate in a process that investigates, and ultimately recommends, a potential long-term funding source for the forestry riparian easement program established in chapter 76.13 RCW.

(2) The findings of, and recommendations from, the process required by this section must be reported to the appropriate committees of the legislature in the manner prescribed in RCW 43.01.036 by May 31, 2012.

(3) This section expires July 31, 2012.

NEW SECTION. Sec. 7. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2011."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Natural Resources & Marine Waters to Engrossed Substitute House Bill No. 1509.

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

MOTION

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

On page 1, line 1 of the title, after "program;" strike the remainder of the title and insert "amending RCW 76.13.120, 76.13.140, and 76.13.160; adding new sections to chapter 76.13 RCW; creating a new section; providing an effective date; providing an expiration date; and declaring an emergency."

MOTION

On motion of Senator Ranker, the rules were suspended, Engrossed Substitute House Bill No. 1509 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Ranker and Morton spoke in favor of passage of the bill.

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The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1509 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1509 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Carrell

Excused: Senator Brown

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1509 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1074, by Representatives Takko, Angel, Springer, Uptegrove and Fitzgibbon

Changing qualifications for appointees to metropolitan water pollution abatement advisory committees.

The measure was read the second time.

MOTION

On motion of Senator Pridemore, the rules were suspended, House Bill No. 1074 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1074.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1074 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

HOUSE BILL NO. 1074, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

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SUBSTITUTE HOUSE BILL NO. 1761, by House Committee on Capital Budget (originally sponsored by Representatives Dunshee and Ormsby)

Limiting private activity bond issues by out-of-state issuers.

The measure was read the second time.

MOTION

Senator Benton moved that the following amendment by Senators Benton and Hobbs be adopted:

On page 3, after line 25, insert the following:

"(3)(a) By December 1, 2011, annually each December 1st until December 1, 2014, and December 1st every five years thereafter, each statewide issuer receiving the notice required by subsection (2) of this section from an issuer formed or organized under the laws of another state shall, within existing funds, submit a report to the appropriate committees of the legislature.

(b) Each report under (a) of this subsection must provide, for annual reports the following information from the previous fiscal year, and for other reports the following information from each of the previous fiscal years:

(i) The number of proposed projects for which the statewide issuer received notice and the information described under subsection (2) of this section;

(ii) A description of the projects for which notice was submitted;

(iii) The dollar amount of each proposed project;

(iv) The location of each proposed project;

(v) Whether the proposed project was approved by the statewide issuer; and

(vi) For any project that was not approved by the statewide issuer, the reasons for the statewide issuer's decision."

Senators Benton and Hobbs 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 Benton and Hobbs on page 3, after line 25 to Substitute House Bill No. 1761.

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

MOTION

On motion of Senator Hobbs, the rules were suspended, Substitute House Bill No. 1761 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1761 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1761 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson,

Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Honeyford

SUBSTITUTE HOUSE BILL NO. 1761 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1306, by Representatives Lytton, Bailey, Dahlquist, Billig, Clibborn, Armstrong, McCune, Blake, Liias, Takko, Chandler, Johnson, Frockt, Fitzgibbon and Smith

Removing the expiration date for exempting applicants who operate commercial motor vehicles for agribusiness purposes from certain commercial driver's license requirements.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.25.060 and 2009 c 339 s 1 are each amended to read as follows:

(1)(a) No person may be issued a commercial driver's license unless that person is a resident of this state, has successfully completed a course of instruction in the operation of a commercial motor vehicle that has been approved by the director or has been certified by an employer as having the skills and training necessary to operate a commercial motor vehicle safely, and has passed a knowledge and skills test for driving a commercial motor vehicle that complies with minimum federal standards established by federal regulation enumerated in 49 C.F.R. part 383, subparts G and H, and has satisfied all other requirements of the CMVSA in addition to other requirements imposed by state law or federal regulation. The tests must be prescribed and conducted by the department. In addition to the fee charged for issuance or renewal of any license, the applicant shall pay a fee of no more than ten dollars for each classified knowledge examination, classified endorsement knowledge examination, or any combination of classified license and endorsement knowledge examinations. The applicant shall pay a fee of no more than one hundred dollars for each classified skill examination or combination of classified skill examinations conducted by the department.

(b) The department may authorize a person, including an agency of this or another state, an employer, a private driver training facility, or other private institution, or a department, agency, or instrumentality of local government, to administer the skills test specified by this section under the following conditions:

(i) The test is the same which would otherwise be administered by the state;

(ii) The third party has entered into an agreement with the state that complies with the requirements of 49 C.F.R. part 383.75; and

(iii) The director has adopted rules as to the third party testing program and the development and justification for fees charged by any third party.

(c) If the applicant's primary use of a commercial driver's license is for any of the following, then the applicant shall pay a fee of no more than seventy-five dollars for each classified skill examination or combination of classified skill examinations whether conducted by the department or a third-party tester:

(i) Public benefit not-for-profit corporations that are federally supported head start programs; or

(ii) Public benefit not-for-profit corporations that support early childhood education and assistance programs as described in RCW 43.215.405((4)) (2).

(2) The department shall work with the office of the superintendent of public instruction to develop modified P1 and P2 skill examinations that also include the skill examination components required to obtain an "S" endorsement. In no event may a new applicant for an "S" endorsement be required to take two separate examinations to obtain an "S" endorsement and either a P1 or P2 endorsement, unless that applicant is upgrading his or her existing commercial driver's license to include an "S" endorsement. The combined P1/S or P2/S skill examination must be offered to the applicant at the same cost as a regular P1 or P2 skill examination.

(3)(a) The department may waive the skills test and the requirement for completion of a course of instruction in the operation of a commercial motor vehicle specified in this section for a commercial driver's license applicant who meets the requirements of 49 C.F.R. part 383.77.

(b) An applicant who operates a commercial motor vehicle for agribusiness purposes is exempt from the course of instruction completion and employer skills and training certification requirements under this section. By January 1, 2010, the department shall submit recommendations regarding the continuance of this exemption to the transportation committees of the legislature. For purposes of this subsection (3)(b), "agribusiness" means a private carrier who in the normal course of business primarily transports:

(i) Farm machinery, farm equipment, implements of husbandry, farm supplies, and materials used in farming;

(ii) Agricultural inputs, such as seed, feed, fertilizer, and crop protection products;

(iii) Unprocessed agricultural commodities, as defined in RCW 17.21.020, where such commodities are produced by farmers, ranchers, vineyardists, or orchardists; or

(iv) Any combination of (b)(i) through (iii) of this subsection.

~~(This subsection (3)(b) expires July 1, 2011.)~~ The department shall notify the transportation committees of the legislature if the federal government takes action affecting the exemption provided in this subsection (3)(b).

(4) A commercial driver's license or commercial driver's instruction permit may not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person's driver's license is suspended, revoked, or canceled in any state, nor may a commercial driver's license be issued to a person who has a commercial driver's license issued by any other state unless the person first surrenders all such licenses, which must be returned to the issuing state for cancellation.

(5)(a) The department may issue a commercial driver's instruction permit to an applicant who is at least eighteen years of age and holds a valid Washington state driver's license and who has submitted a proper application, passed the general knowledge examination required for issuance of a commercial driver's license under subsection (1) of this section, and paid the appropriate fee for the knowledge examination and an application fee of ten dollars.

(b) A commercial driver's instruction permit may not be issued for a period to exceed six months. Only one renewal or reissuance may be granted within a two-year period.

(c) The holder of a commercial driver's instruction permit may drive a commercial motor vehicle on a highway only when accompanied by the holder of a commercial driver's license valid for the type of vehicle driven who occupies a seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle. The holder of a commercial driver's instruction

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permit is not authorized to operate a commercial motor vehicle transporting hazardous materials.

(d) The department shall transmit the fees collected for commercial driver's instruction permits to the state treasurer.

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 July 1, 2011."

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to House Bill No. 1306.

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

MOTION

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

On page 1, line 3 of the title, after "requirements;" strike the remainder of the title and insert "amending RCW 46.25.060; providing an effective date; and declaring an emergency."

MOTION

On motion of Senator Haugen, the rules were suspended, House Bill No. 1306 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Haugen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1306 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1306 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Kline

HOUSE BILL NO. 1306 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Delvin, Senator Carrell was excused.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1922, by House Committee on Transportation (originally sponsored by Representatives Shea, Taylor and McCune)

Requiring certain vehicles to stop at a weigh station for inspection and weight measurement. Revised for 1st Substitute: Requiring certain vehicles to submit to inspection and weight measurement upon entering the state. (REVISED FOR ENGROSSED: Requiring certain vehicles to stop at a port of entry upon entering the state.)

The measure was read the second time.

MOTION

Senator King moved that the following committee amendment by the Committee on Transportation be adopted:

On page 2, line 6, after "purposes" strike "in the counties described in subsection (5) of this section"

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

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Transportation to Engrossed Substitute House Bill No. 1922.

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

MOTION

On motion of Senator King, the rules were suspended, Engrossed Substitute House Bill No. 1922 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1922 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1922 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1922 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1829, by House Committee on Education (originally sponsored by Representatives Billig, Santos, Haigh, Probst, Sells, Kenney, Reykdal, Maxwell, Stanford, Morris, Hasegawa, Ryu, McCoy, Hunt, Moscoso, Hope, Appleton and Ormsby)

Creating a division of Indian education in the office of the superintendent of public instruction. Revised for 1st Substitute: Creating an office of Native education within the office of the superintendent of public instruction.

The measure was read the second time.

MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Early Learning & K-12 Education be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds:

(1) Leadership, technical assistance, and advocacy is important to promoting the academic success of all students, particularly including American Indian and Alaska Native students;

(2) American Indian and Alaska Native students make up two and one-half percent of the total student population in the state and twenty-five percent or more of the student population in fifty-seven schools across the state;

(3) The annual dropout rate for American Indian and Alaska Native students has hovered around ten or eleven percent over the past three school years and, while the on-time graduation rate for these students has improved between the 2006-07 and 2008-09 school years, it is still only fifty-two and seven-tenths percent; and

(4) Despite the passage of House Bill No. 1495 in 2005, with its goal of educating citizens of the state about tribal history, culture, treaty rights, contemporary tribal and state government institutions and relations, and the contribution of American Indians and Alaska Natives to the state, that goal has yet to be achieved in many schools.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.300 RCW to read as follows:

(1) To the extent funds are available, an Indian education division, to be known as the office of Native education, is created within the office of the superintendent of public instruction. The superintendent shall appoint an individual to be responsible for the office of Native education.

(2) To the extent state funds are available, with additional support of federal and local funds where authorized by law, the office of Native education shall:

(a) Provide assistance to school districts in meeting the educational needs of American Indian and Alaska Native students;

(b) Facilitate the development and implementation of curricula and instructional materials in native languages, culture and history, and the concept of tribal sovereignty pursuant to RCW 28A.320.170;

(c) Provide assistance to districts in the acquisition of funding to develop curricula and instructional materials in conjunction with native language practitioners and tribal elders;

(d) Coordinate technical assistance for public schools that serve American Indian and Alaska Native students;

(e) Seek funds to develop, in conjunction with the Washington state native American education advisory committee, and implement the following support services for the purposes of both increasing the number of American Indian and Alaska Native teachers and principals and providing continued professional development for educational assistants, teachers, and principals serving American Indian and Alaska Native students:

(i) Recruitment and retention;

(ii) Academic transition programs;

(iii) Academic financial support;

(iv) Teacher preparation;

(v) Teacher induction; and

(vi) Professional development;

(f) Facilitate the inclusion of native language programs in school districts' curricula;

(g) Work with all relevant agencies and committees to highlight the need for accurate, useful data that is appropriately disaggregated to provide a more accurate picture regarding American Indian and Alaska Native students; and

(h) Report to the governor, the legislature, and the governor's office of Indian affairs on an annual basis, beginning in December 2012, regarding the state of Indian education and the implementation of all state laws regarding Indian education, specifically noting system successes and accomplishments, deficiencies, and needs.

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

The Native education public-private partnership account is created in the custody of the state treasurer. The purpose of the account is to support the activities of the office of Native education within the office of the superintendent of public instruction under section 2 of this act. Receipts from any appropriations made by the legislature for the purposes of section 2 of this act, federal funds, gifts or grants from the private sector or foundations, and other sources must be deposited into the account. Only the superintendent of public instruction or the superintendent's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures."

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Early Learning & K-12 Education to Substitute House Bill No. 1829.

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

MOTION

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

On page 1, line 2 of the title, after "instruction;" strike the remainder of the title and insert "adding new sections to chapter 28A.300 RCW; and creating a new section."

MOTION

On motion of Senator McAuliffe, the rules were suspended, Substitute House Bill No. 1829 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe, Brown and Roach spoke in favor of passage of the bill.

Senator King spoke against passage of the bill.

MOTION

On motion of Senator Ericksen, Senator Zarelli was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1829 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1829 as amended by the Senate and the bill

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passed the Senate by the following vote: Yeas, 36; Nays, 12; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Prentice, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Swecker, Tom and White

Voting nay: Senators Baxter, Becker, Delvin, Holmquist Newbry, Honeyford, King, Morton, Parlette, Pflug, Pridemore, Schoesler and Stevens

Excused: Senator Zarelli

SUBSTITUTE HOUSE BILL NO. 1829 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

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

MOTION

At 6:01 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

EVENING SESSION

The Senate was called to order at 7:01 p.m. by President Owen.

PERSONAL PRIVILEGE

Senator Brown: "Thank you Mr. President. I just want to let people know that the building is locked and we do not intend to conduct any business, any of the people's business with the building locked."

MOTION

At 7:02 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 7:49 p.m. by President Owen.

SECOND READING

ENGROSSED HOUSE BILL NO. 1223, by Representatives Fitzgibbon, Green, Darneille, Jinkins, Ladenburg and Takko

Authorizing use of hearing officers for street vacation hearings. (REVISED FOR ENGROSSED: Authorizing use of hearing examiners for street vacation hearings.)

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, Engrossed House Bill No. 1223 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

MOTION

On motion of Senator White, Senator Pridemore was excused.

MOTION

On motion of Senator Ericksen, Senator Holmquist Newbry was excused.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1223.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1223 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Holmquist Newbry and Pridemore
ENGROSSED HOUSE BILL NO. 1223, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1340, by Representatives Kretz, McCune, Johnson and Warnick

Regarding the unlawful hunting of big game.

The measure was read the second time.

MOTION

On motion of Senator Ranker, the rules were suspended, House Bill No. 1340 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Ranker and Morton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1340.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1340 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain,

Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

HOUSE BILL NO. 1340, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1266, by House Committee on Judiciary (originally sponsored by Representatives Pedersen, Rodne, Warnick, Kenney and Kelley)

Modifying the landlord-tenant act and other related provisions.

The measure was read the second time.

MOTION

On motion of Senator Hobbs, the rules were suspended, Substitute House Bill No. 1266 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1266.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1266 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 3; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Erickson, Holmquist Newbry and Stevens

SUBSTITUTE HOUSE BILL NO. 1266, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1315, by House Committee on Health Care & Wellness (originally sponsored by Representatives Kelley, Schmick, Cody, Hinkle, Van De Wege, Miloscia, Jinkins, Seaquist, Angel and Harris)

Concerning the employment of physicians by nursing homes.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 18.51 RCW to read as follows:

(1) A nursing home licensed under this chapter may employ physicians for the provision of professional services to its residents under the following conditions:

(a) The nursing home may not in any manner, directly or indirectly, supplant, diminish, or regulate any employed physician's judgment concerning the practice of medicine or the diagnosis and treatment of any patient; and

(b) The employed physicians may provide professional services only to residents of the nursing home or a related living facility.

(2) The employment of physicians as authorized by this section may be through the following entities:

(a) The entity licensed to operate the nursing home; or

(b) A separate entity authorized to conduct business in the state of Washington that has common or overlapping ownership as an affiliate or subsidiary of the licensee, as long as the licensee complies with subsection (3) of this section.

(3) Nothing in this section relieves the licensee of its ultimate responsibility for the daily operations of the nursing home.

(4) Nothing in this section may be construed to interfere with the federal resident rights requirements found in 42 C.F.R. 483.10, or successor rules, or found in this chapter, chapter 74.42 RCW, or the rules adopted by the department addressing resident's rights under this chapter or chapter 74.42 RCW.

(5) As used in this section, "related living facility" means (a) a separate nursing home that is owned, controlled, or managed by the same or an affiliated or subsidiary entity; or (b) a facility that (i) provides independent living services or boarding home services under chapter 18.20 RCW, in a single contiguous campus as the nursing home, and (ii) is owned, controlled, or managed by the same or related entity as the nursing home. For purposes of this subsection "contiguous" means land adjoining or touching property on which the nursing home is located, including land divided by a public road.

Sec. 2. RCW 74.42.010 and 2010 c 94 s 27 are each reenacted and amended to read as follows:

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

(1) "Department" means the department of social and health services and the department's employees.

(2) "Facility" refers to a nursing home as defined in RCW 18.51.010.

(3) "Licensed practical nurse" means a person licensed to practice practical nursing under chapter 18.79 RCW.

(4) "Medicaid" means Title XIX of the Social Security Act enacted by the social security amendments of 1965 (42 U.S.C. Sec. 1396; 79 Stat. 343), as amended.

(5) "Nurse practitioner" means a person licensed to practice advanced registered nursing under chapter 18.79 RCW.

(6) "Nursing care" means that care provided by a registered nurse, an advanced registered nurse practitioner, a licensed practical nurse, or a nursing assistant in the regular performance of their duties.

(7) "Physician" means a person practicing pursuant to chapter 18.57 or 18.71 RCW, including, but not limited to, a physician employed by the facility as provided in chapter 18.51 RCW.

(8) "Physician assistant" means a person practicing pursuant to chapter ~~(s)~~ 18.57A ~~(and)~~ or 18.71A RCW.

~~((8))~~ (9) "Qualified therapist" means:

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(a) An activities specialist who has specialized education, training, or experience specified by the department.

(b) An audiologist who is eligible for a certificate of clinical competence in audiology or who has the equivalent education and clinical experience.

(c) A mental health professional as defined in chapter 71.05 RCW.

(d) An intellectual disabilities professional who is a qualified therapist or a therapist approved by the department and has specialized training or one year experience in treating or working with persons with intellectual or developmental disabilities.

(e) An occupational therapist who is a graduate of a program in occupational therapy or who has equivalent education or training.

(f) A physical therapist as defined in chapter 18.74 RCW.

(g) A social worker who is a graduate of a school of social work.

(h) A speech pathologist who is eligible for a certificate of clinical competence in speech pathology or who has equivalent education and clinical experience.

~~((9))~~ (10) "Registered nurse" means a person licensed to practice registered nursing under chapter 18.79 RCW.

~~((4))~~ (11) "Resident" means an individual residing in a nursing home, as defined in RCW 18.51.010.

NEW SECTION. Sec. 3. The department of social and health services shall monitor nursing homes who hire physicians on staff and report to the legislature by January 1, 2013. The report shall include information on consumer satisfaction and medical cost implications of including physicians on staff in nursing facilities."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care to Substitute House Bill No. 1315.

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

MOTION

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

On page 1, line 1 of the title, after "homes;" strike the remainder of the title and insert "reenacting and amending RCW 74.42.010; adding a new section to chapter 18.51 RCW; and creating a new section."

MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 1315 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1315 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1315 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs,

Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1315 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1770, by Representatives Hasegawa, Kenney, Orcutt, Frockt and Stanford

Enhancing small business participation in state purchasing.

The measure was read the second time.

MOTION

Senator Kastama moved that the following committee striking amendment by the Committee on Economic Development, Trade & Innovation be not adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that it is in the state's economic interest and serves a public purpose to promote and facilitate the fullest possible participation by Washington businesses of all sizes in the process by which goods and services are purchased by the state. The legislature further finds that large businesses have the resources to participate fully and effectively in the state's purchasing system, and because of many factors, including economies of scale, the purchasing system tends to create a preference in favor of large businesses and to disadvantage small businesses. The legislature intends, therefore, to assist, to the maximum extent possible, small businesses to participate in order to enhance and preserve competitive enterprise and to ensure that small businesses have a fair opportunity to be awarded contracts or subcontracts for goods and services purchased by the state.

NEW SECTION. Sec. 2. A new section is added to chapter 43.19 RCW to read as follows:

(1) Purchasing agencies, including institutions of higher education, must establish and implement a plan to increase the number of small businesses annually receiving state contracts for goods and services purchased by the state. The goal of the plan must be to have the number of small businesses receiving state contracts in 2013 be at least fifty percent higher, and in 2015 be at least one hundred percent higher, than the number of contracts awarded to small businesses in 2010.

(2) To facilitate the participation of small business in the provision of goods and services to the state, including purchases under chapters 39.29 and 43.105 RCW, the state purchasing and material control director, under the powers granted by RCW 43.19.190 through 43.19.1939, and all state purchasing agencies, including institutions of higher education, operating under delegated authority granted under RCW 43.19.190 or 28B.10.029, must give assistance to small businesses by providing opportunities for the agency to answer vendor questions about the bid solicitation requirements in advance of the bid due date and, upon request after the contract award, for the agency to hold a debriefing to assist the vendor in understanding how to improve his or her responses for future competitive procurements.

(3) Purchasing agencies, including institutions of higher education, must adopt rules deemed necessary by the executive head

of the agency or its board, as applicable, to implement this section. Such rules must include a set of measurable data to identify the effects the technical assistance under this section is having on the number of small businesses annually receiving state contracts for goods and services purchased by the state.

(4) As used in this section:

(a) "Purchasing agencies" are limited to the department of general administration, the department of information services, and the department of transportation.

(b) "In-state business" has the same meaning as defined in RCW 39.29.006.

(c) "Small business" has the same meaning as defined in RCW 39.29.006.

Sec. 3. RCW 39.29.006 and 2009 c 486 s 6 are each amended to read as follows:

As used in this chapter:

(1) "Agency" means any state office or activity of the executive and judicial branches of state government, including state agencies, departments, offices, divisions, boards, commissions, and educational, correctional, and other types of institutions.

(2) "Client services" means services provided directly to agency clients including, but not limited to, medical and dental services, employment and training programs, residential care, and subsidized housing.

(3) "Common vendor registration and bid notification system" means the internet-based vendor registration and bid notification system maintained by and housed within the department of general administration. The requirements contained in chapter 486, Laws of 2009 shall continue to apply to this system, regardless of future changes to its name or management structure.

(4) "Competitive solicitation" means a documented formal process providing an equal and open opportunity to qualified parties and culminating in a selection based on criteria which may include such factors as the consultant's fees or costs, ability, capacity, experience, reputation, responsiveness to time limitations, responsiveness to solicitation requirements, quality of previous performance, and compliance with statutes and rules relating to contracts or services. "Competitive solicitation" includes posting of the contract opportunity on the state's common vendor registration and bid notification system.

(5) "Consultant" means an independent individual or firm contracting with an agency to perform a service or render an opinion or recommendation according to the consultant's methods and without being subject to the control of the agency except as to the result of the work. The agency monitors progress under the contract and authorizes payment.

(6) "Emergency" means a set of unforeseen circumstances beyond the control of the agency that either:

(a) Present a real, immediate threat to the proper performance of essential functions; or

(b) May result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

(7) "Evidence of competition" means documentation demonstrating that the agency has solicited responses from multiple firms in selecting a consultant. "Evidence of competition" includes documentation that the agency has posted the contract opportunity on the state's common vendor registration and bid notification system.

(8) "In-state business" means a business that has its principal office located in Washington.

(9) "Personal service" means professional or technical expertise provided by a consultant to accomplish a specific study, project, task, or other work statement. This term does not include purchased services as defined under subsection ~~((10))~~ (11) of this section. This term does include client services.

~~((9))~~ (10) "Personal service contract" means an agreement, or any amendment thereto, with a consultant for the rendering of personal services to the state which is consistent with RCW 41.06.142.

~~((10))~~ (11) "Purchased services" means services provided by a vendor to accomplish routine, continuing and necessary functions. This term includes, but is not limited to, services acquired under RCW 43.19.190 or 43.105.041 for equipment maintenance and repair; operation of a physical plant; security; computer hardware and software maintenance; data entry; key punch services; and computer time-sharing, contract programming, and analysis.

~~((11))~~ (12) "Small business" means an in-state business, including a sole proprietorship, corporation, partnership, or other legal entity, that: ~~(a) Certifies, under penalty of perjury, that it is owned and operated independently from all other businesses and has either ((a)) (i) fifty or fewer employees, or ((b)) (ii) a gross revenue of less than seven million dollars annually as reported on its federal income tax return or its return filed with the department of revenue over the previous three consecutive years~~ ~~(-- As used in this definition, "in state business" means a business that has its principal office located in Washington and its officers domiciled in Washington);~~ or (b) is certified under chapter 39.19 RCW.

~~((12))~~ (13) "Sole source" means a consultant providing professional or technical expertise of such a unique nature that the consultant is clearly and justifiably the only practicable source to provide the service. The justification shall be based on either the uniqueness of the service or sole availability at the location required."

On page 1, line 2 of the title, after "purchasing;" strike the remainder of the title and insert "amending RCW 39.29.006; adding a new section to chapter 43.19 RCW; and creating a new section."

The President declared the question before the Senate to be the motion by Senator Kastama to not adopt the committee striking amendment by the Committee on Economic Development, Trade & Innovation to House Bill No. 1770.

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

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that it is in the state's economic interest and serves a public purpose to promote and facilitate the fullest possible participation by Washington businesses of all sizes in the process by which goods and services are purchased by the state. The legislature further finds that large businesses have the resources to participate fully and effectively in the state's purchasing system, and because of many factors, including economies of scale, the purchasing system tends to create a preference in favor of large businesses and to disadvantage small businesses. The legislature intends, therefore, to assist, to the maximum extent possible, small businesses to participate in order to enhance and preserve competitive enterprise and to ensure that small businesses have a fair opportunity to be awarded contracts or subcontracts for goods and services purchased by the state. The legislature recognizes the need to increase accountability for the state's procurement and contracting practices. The legislature, therefore, intends to encourage all state agencies to maintain records of state purchasing contracts awarded to registered small businesses. The legislature further recognizes that access to a modernized system that categorizes a state business by such factors as its type and size, is an essential tool for receiving accurate and verifiable

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information regarding the effects any technical assistance is having on the number of small businesses annually receiving state contracts for goods and services purchased by the state.

NEW SECTION. Sec. 2. A new section is added to chapter 43.19 RCW to read as follows:

(1) The department of general administration must develop a model plan for state agencies to increase: (a) The number of small businesses registering in the state's common vendor registration and bid notification system; (b) the number of such registered small businesses annually receiving state contracts for goods and services purchased by the state; and (c) the percentage of total state dollars spent for goods and services purchased from such registered small businesses. The goal of the plan is to increase the number of small businesses receiving state contracts as well as the percentage of total state dollars spent for goods and services from small businesses registered in the state's common vendor registration and bid notification system by at least fifty percent in fiscal year 2013, and at least one hundred percent in fiscal year 2015 over the baseline data reported for fiscal year 2011.

(2) All state purchasing agencies may adopt the model plan developed by the department of general administration under subsection (1) of this section. A state purchasing agency that does not adopt the model plan must establish and implement a plan consistent with the goals of subsection (1) of this section.

(3) To facilitate the participation of small businesses in the provision of goods and services to the state, including purchases under chapters 39.29 and 43.105 RCW, the state purchasing and material control director, under the powers granted by RCW 43.19.190 through 43.19.1939, and all state purchasing agencies operating under delegated authority granted under RCW 43.19.190 or 28B.10.029, must give technical assistance to small businesses regarding the state bidding process. Such technical assistance shall include providing opportunities for the agency to answer vendor questions about the bid solicitation requirements in advance of the bid due date and, upon request, holding a debriefing after the contract award to assist the vendor in understanding how to improve his or her responses for future competitive procurements.

(4)(a) All state purchasing agencies must maintain records of state purchasing contracts awarded to registered small businesses in order to track outcomes and provide accurate, verifiable information regarding the effects the technical assistance under subsection (3) of this section is having on the number of small businesses annually receiving state contracts for goods and services purchased by the state.

(b) The department of general administration may provide assistance to other agencies attempting to maintain records of state purchasing contracts awarded to registered small businesses for the purposes described under (a) of this subsection.

(5) The definitions in this subsection apply throughout this section and section 3 of this act unless the context clearly requires otherwise.

(a) "Small business" has the same meaning as defined in RCW 39.29.006.

(b) "State purchasing agencies" are limited to the department of general administration, the department of information services, the office of financial management, the department of transportation, and institutions of higher education.

NEW SECTION. Sec. 3. A new section is added to chapter 43.19 RCW to read as follows:

(1) By November 15, 2013, and November 15th every two years thereafter, all state purchasing agencies shall submit a report to the appropriate committees of the legislature providing verifiable information regarding the effects the technical assistance under section 2(3) of this act is having on the number of small businesses

annually receiving state contracts for goods and services purchased by the state.

(2) By December 31, 2013, all state purchasing agencies must use the web-based information system created under subsection (3)(a) of this section to capture the data required under subsection (3)(a) of this section.

(3)(a) The department of general administration, in consultation with the department of information services, the department of transportation, and the department of commerce, must develop and implement a web-based information system. The web-based information system must be used to capture data, track outcomes, and provide accurate and verifiable information regarding the effects the technical assistance under section 2(3) of this act is having on the number of small businesses annually receiving state contracts for goods and services purchased by the state. Such measurable data shall include, but not be limited to: (i) The number of registered small businesses that have been awarded state procurement contracts, (ii) the percentage of total state dollars spent for goods and services purchased from registered small businesses, and (iii) the number of registered small businesses that have bid on but were not awarded state purchasing contracts.

(b) By October 1, 2011, the department of general administration, in collaboration with the department of information services and the department of transportation, shall submit a report to the appropriate committees of the legislature detailing the projected cost associated with the implementation and maintenance of the web-based information system.

(c) By September 1, 2012, the department of general administration, in collaboration with the department of information services and the department of transportation, shall submit a report to the appropriate committees of the legislature providing any recommendations for needed legislation to improve the collection of data required under (a) of this subsection.

(d) By December 31, 2013, the department of general administration must make the web-based information system available to all state purchasing agencies.

(e) The department of general administration may also make the web-based information system available to other agencies that would like to use the system for the purposes of chapter . . . , Laws of 2011 (this act).

Sec. 4. RCW 39.29.011 and 2009 c 486 s 7 are each amended to read as follows:

All personal service contracts shall be entered into pursuant to competitive solicitation, except for:

- (1) Emergency contracts;
- (2) Sole source contracts;
- (3) Contract amendments;

(4) Contracts between a consultant and an agency of less than twenty thousand dollars. However, contracts of five thousand dollars or greater but less than ~~((twenty))~~ ten thousand dollars shall have documented evidence of competition. Contracts of ten thousand dollars or greater, but less than twenty thousand dollars, shall have documented evidence of competition, which must include agency posting of the contract opportunity on the state's common vendor registration and bid notification system. Agencies shall not structure contracts to evade these requirements; and

(5) Other specific contracts or classes or groups of contracts exempted from the competitive solicitation process by the director of the office of financial management when it has been determined that a competitive solicitation process is not appropriate or cost-effective.

Sec. 5. RCW 43.19.1908 and 2009 c 486 s 11 are each amended to read as follows:

(1) For contracts of twenty-five thousand dollars or greater, the competitive bidding required by RCW 43.19.190 through

43.19.1939 shall be solicited by public notice, by posting of the contract opportunity on the state's common vendor registration and bid notification system, and through the sending of notices by mail, electronic transmission, or other means to bidders on the appropriate list of bidders who shall have qualified by application to the division of purchasing.

(2) Contracts for less than twenty-five thousand dollars, and contracts up to the direct buy dollar amount limit pursuant to RCW 43.19.1906(2), must be solicited by public notice and have documented evidence of competition.

(3) Bids may be solicited by the purchasing division from any source thought to be of advantage to the state. All bids shall be in written or electronic form and conform to rules of the division of purchasing.

Sec. 6. RCW 43.105.041 and 2010 1st sp.s. c 7 s 65 are each amended to read as follows:

(1) The board shall have the following powers and duties related to information services:

(a) To develop standards and procedures governing the acquisition and disposition of equipment, proprietary software and purchased services, licensing of the radio spectrum by or on behalf of state agencies, and confidentiality of computerized data;

(b) To purchase, lease, rent, or otherwise acquire, dispose of, and maintain equipment, proprietary software, and purchased services, or to delegate to other agencies and institutions of state government, under appropriate standards, the authority to purchase, lease, rent, or otherwise acquire, dispose of, and maintain equipment, proprietary software, and purchased services: **PROVIDED**, That, agencies and institutions of state government are expressly prohibited from acquiring or disposing of equipment, proprietary software, and purchased services without such delegation of authority. The acquisition and disposition of equipment, proprietary software, and purchased services is exempt from RCW 43.19.1919 and, as provided in RCW 43.19.1901, from the provisions of RCW 43.19.190 through 43.19.200, except that the board, the department, and state agencies, as delegated, must post notices of technology procurement bids on the state's common vendor registration and bid notification system for (i) goods and purchased services of fifty thousand dollars or greater, and (ii) personal services of ten thousand dollars or greater. This subsection (1)(b) does not apply to the legislative branch;

(c) To develop statewide or interagency technical policies, standards, and procedures;

(d) To review and approve standards and common specifications for new or expanded telecommunications networks proposed by agencies, public postsecondary education institutions, educational service districts, or statewide or regional providers of K-12 information technology services, and to assure the cost-effective development and incremental implementation of a statewide video telecommunications system to serve: Public schools; educational service districts; vocational-technical institutes; community colleges; colleges and universities; state and local government; and the general public through public affairs programming;

(e) To provide direction concerning strategic planning goals and objectives for the state. The board shall seek input from the legislature and the judiciary;

(f) To develop and implement a process for the resolution of appeals by:

(i) Vendors concerning the conduct of an acquisition process by an agency or the department; or

(ii) A customer agency concerning the provision of services by the department or by other state agency providers;

(g) To establish policies for the periodic review by the department of agency performance which may include but are not limited to analysis of:

(i) Planning, management, control, and use of information services;

(ii) Training and education; and

(iii) Project management;

(h) To set its meeting schedules and convene at scheduled times, or meet at the request of a majority of its members, the chair, or the director;

(i) To review and approve that portion of the department's budget requests that provides for support to the board; and

(j) To develop procurement policies and procedures, such as unbundled contracting and subcontracting, that encourage and facilitate the purchase of products and services by state agencies and institutions from Washington small businesses to the maximum extent practicable and consistent with international trade agreement commitments.

(2) Statewide technical standards to promote and facilitate electronic information sharing and access are an essential component of acceptable and reliable public access service and complement content-related standards designed to meet those goals. The board shall:

(a) Establish technical standards to facilitate electronic access to government information and interoperability of information systems, including wireless communications systems. Local governments are strongly encouraged to follow the standards established by the board; and

(b) Require agencies to consider electronic public access needs when planning new information systems or major upgrades of systems.

In developing these standards, the board is encouraged to include the state library, state archives, and appropriate representatives of state and local government.

(3)(a) The board has the duty to govern, operate, and oversee the technical design, implementation, and operation of the K-20 network including, but not limited to, the following duties: Establishment and implementation of K-20 network technical policy, including technical standards and conditions of use; review and approval of network design; procurement of shared network services and equipment; and resolving user/provider disputes concerning technical matters. The board shall delegate general operational and technical oversight to the department as appropriate.

(b) The board has the authority to adopt rules under chapter 34.05 RCW to implement the provisions regarding the technical operations and conditions of use of the K-20 network.

Sec. 7. RCW 39.29.006 and 2009 c 486 s 6 are each amended to read as follows:

As used in this chapter:

(1) "Agency" means any state office or activity of the executive and judicial branches of state government, including state agencies, departments, offices, divisions, boards, commissions, and educational, correctional, and other types of institutions.

(2) "Client services" means services provided directly to agency clients including, but not limited to, medical and dental services, employment and training programs, residential care, and subsidized housing.

(3) "Common vendor registration and bid notification system" means the internet-based vendor registration and bid notification system maintained by and housed within the department of general administration. The requirements contained in chapter 486, Laws of 2009 shall continue to apply to this system, regardless of future changes to its name or management structure.

(4) "Competitive solicitation" means a documented formal process providing an equal and open opportunity to qualified parties and culminating in a selection based on criteria which may include such factors as the consultant's fees or costs, ability, capacity, experience, reputation, responsiveness to time limitations, responsiveness to solicitation requirements, quality of previous

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performance, and compliance with statutes and rules relating to contracts or services. "Competitive solicitation" includes posting of the contract opportunity on the state's common vendor registration and bid notification system.

(5) "Consultant" means an independent individual or firm contracting with an agency to perform a service or render an opinion or recommendation according to the consultant's methods and without being subject to the control of the agency except as to the result of the work. The agency monitors progress under the contract and authorizes payment.

(6) "Emergency" means a set of unforeseen circumstances beyond the control of the agency that either:

(a) Present a real, immediate threat to the proper performance of essential functions; or

(b) May result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

(7) "Evidence of competition" means documentation demonstrating that the agency has solicited responses from multiple firms in selecting a consultant. "Evidence of competition" includes documentation that the agency has posted the contract opportunity on the state's common vendor registration and bid notification system.

(8) "In-state business" means a business that has its principal office located in Washington.

(9) "Personal service" means professional or technical expertise provided by a consultant to accomplish a specific study, project, task, or other work statement. This term does not include purchased services as defined under subsection ~~((4))~~ (11) of this section. This term does include client services.

~~((9))~~ (10) "Personal service contract" means an agreement, or any amendment thereto, with a consultant for the rendering of personal services to the state which is consistent with RCW 41.06.142.

~~((4))~~ (11) "Purchased services" means services provided by a vendor to accomplish routine, continuing and necessary functions. This term includes, but is not limited to, services acquired under RCW 43.19.190 or 43.105.041 for equipment maintenance and repair; operation of a physical plant; security; computer hardware and software maintenance; data entry; key punch services; and computer time-sharing, contract programming, and analysis.

~~((4))~~ (12) "Small business" means an in-state business, including a sole proprietorship, corporation, partnership, or other legal entity, that: (a) Certifies, under penalty of perjury, that it is owned and operated independently from all other businesses and has either ~~((4))~~ (i) fifty or fewer employees, or ~~((4))~~ (ii) a gross revenue of less than seven million dollars annually as reported on its federal income tax return or its return filed with the department of revenue over the previous three consecutive years~~((— As used in this definition, "in state business" means a business that has its principal office located in Washington and its officers domiciled in Washington))~~; or (b) is certified under chapter 39.19 RCW.

~~((4))~~ (13) "Sole source" means a consultant providing professional or technical expertise of such a unique nature that the consultant is clearly and justifiably the only practicable source to provide the service. The justification shall be based on either the uniqueness of the service or sole availability at the location required.

NEW SECTION. Sec. 8. If specific funding for the purposes of section 3 of this act, referencing section 3 of this act by bill or chapter number and section number, is not provided by June 30, 2012, in the omnibus appropriations act, section 3 of this act is null and void."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kastama and Zarelli to House Bill No. 1770.

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

MOTION

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

On page 1, line 2 of the title, after "purchasing;" strike the remainder of the title and insert "amending RCW 39.29.011, 43.19.1908, 43.105.041, and 39.29.006; adding new sections to chapter 43.19 RCW; and creating new sections."

MOTION

On motion of Senator Kastama, the rules were suspended, House Bill No. 1770 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of House Bill No. 1770 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1770 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Ericksen

HOUSE BILL NO. 1770 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1494, by House Committee on Health Care & Wellness (originally sponsored by Representative Moeller)

Concerning elder placement referrals. Revised for 1st Substitute: Concerning vulnerable adult referral agencies.

The measure was read the second time.

MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Health & Long-Term Care be not adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that locating acceptable housing and appropriate care for vulnerable adults is an important aspect of providing an appropriate continuity of care for senior citizens.

(2) The legislature further finds that locating appropriate and quality housing alternatives sometimes depends on elder and vulnerable adult referral agencies attempting to assist with referral.

(3) The legislature further finds that vulnerable adult referral professionals should be required to meet certain minimum requirements to promote better integration of vulnerable adult housing choices.

(4) The legislature further finds that the requirement that elder and vulnerable adult referral agencies meet minimum standards of conduct is in the interest of public health, safety, and welfare.

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

(1) "Care services" means any combination of services, including in-home care, private duty care, or private duty nursing designed for or with the goal of allowing vulnerable adults to receive care and related services at home or in a home-like setting. Care service providers must include home health agencies and in-home service agencies licensed under chapter 70.127 RCW.

(2) "Client" means an elder person or a vulnerable adult, and his or her representative if any, seeking a referral or assistance with entering into an arrangement for supportive housing or care services in Washington state through an elder and vulnerable adult referral agency. For purposes of this chapter, the "client's representative" means the person authorized under RCW 7.70.065 or other laws to provide informed consent for an individual unable to do so.

(3) "Elder and vulnerable adult referral agency" or "agency" means a business or person who receives a fee from or on behalf of a vulnerable adult seeking a referral to care services or supportive housing, or who receives a fee from a care services provider or supportive housing provider because of any referral provided to or on behalf of a vulnerable adult.

(4) "Fee" means anything of value. "Fee" includes money or other valuable consideration or services or the promise of money or other valuable consideration or services, received directly or indirectly by an elder and vulnerable adult referral agency.

(5) "Information" means the provision of general information by an agency to a person about the types of supportive housing or care services available in the area that may meet the needs of elderly or vulnerable adults without giving the person the names of specific providers of care services or supportive housing, or giving a provider the name of the person or vulnerable adult. Information also means the provision by an agency of the names of specific providers to a social worker, discharge planner, case manager, professional guardian, nurse, or other professional who is assisting a vulnerable adult locate supportive housing or care services, where the agency does not request or receive any fee.

(6) "Person" includes any individual, firm, corporation, partnership, association, company, society, manager, contractor, subcontractor, bureau, agency, organization, service, office, or an agent or any of their employees.

(7) "Provider" means any entity or person that both provides supportive housing or care services to a vulnerable adult for a fee and provides or is required to provide such housing or services under a state or local business license specific to such housing or services.

(8) "Referral" means the act of an agency giving a client the name or names of specific providers of care services or supportive housing that may meet the needs of the vulnerable adult identified in the intake form described in section 7 of this act, or the agency gives a provider the name of a client for the purposes of enabling the

provider to contact the client regarding care services or supportive housing provided by that provider.

(9) "Supportive housing" means any type of housing that includes services for care needs and is designed for prospective residents who are vulnerable adults. Supportive housing includes, but is not limited to, nursing homes licensed under chapter 18.51 RCW, boarding homes licensed under chapter 18.20 RCW, adult family homes licensed under chapter 70.128 RCW, and continuing care retirement communities under RCW 70.38.025.

(10) "Vulnerable adult" has the same meaning as in RCW 74.34.020.

NEW SECTION. Sec. 3. (1) As of January 1, 2012, a business or person operating or maintaining an agency in this state is subject to the provisions of this chapter. An agency must maintain general and professional liability insurance to cover the acts and services of the agency. The combined single limit liability insurance coverage required is one million dollars.

(2) The agency may not create an exclusive agreement between the agency and the client, or between the agency and a provider. The agency cannot provide referral services to a client where the only names given to the client are of providers in which the agency or its personnel or immediate family members have an ownership interest in those providers. An agreement entered into between an agency and a provider must allow either the provider or the agency to cancel the agreement with specific payment terms regarding pending fees or commissions outlined in the agreement.

(3) The marketing materials, informational brochures, and web sites owned or operated by an agency, and concerning information or referral services for elderly or vulnerable adults, must include a clear identification of the agency.

(4) All owners, operators, and employees of an agency shall be considered mandated reporters under the vulnerable adults act, chapter 74.34 RCW. No agency may develop or enforce any policies or procedures that interfere with the reporting requirements of chapter 74.34 RCW.

NEW SECTION. Sec. 4. Nothing in this chapter may be construed to prohibit, restrict, or apply to:

(1) Any home health or hospice agency while providing counseling to patients on placement options in the normal course of practice;

(2) Government entities providing information and assistance to vulnerable adults unless making a referral in which a fee is received from a client;

(3) Professional guardians providing services under authority of their guardianship appointment;

(4) Supportive housing or care services providers who make referrals to other supportive housing or care services providers where no monetary value is exchanged;

(5) Social workers, discharge planners, or other social services staff assisting a vulnerable adult to define supportive housing or care services providers in the course of their employment responsibilities if they do not receive any monetary value from a provider; or

(6) Any person to the extent that he or she provides information to another person.

NEW SECTION. Sec. 5. (1) Each agency shall keep records of all referrals rendered to or on behalf of clients. These records must contain:

(a) The name of the vulnerable adult, and the address and phone number of the client or the client's representative, if any;

(b) The kind of supportive housing or care services for which referral was sought;

(c) The location of the care services or supportive housing referred to the client and probable duration, if known;

(d) The monthly or unit cost of the supportive housing or care services, if known;

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(e) If applicable, the amount of the agency's fee to the client or to the provider;

(f) If applicable, the dates and amounts of refund of the agency's fee, if any, and reason for such refund; and

(g) A copy of the client's disclosure and intake forms described in sections 6 and 7 of this act.

(2) Each agency shall also keep records of any contract or written agreement entered into with any provider for services rendered to or on behalf of a vulnerable adult, including any referrals to a provider. Any provision in a contract or written agreement not consistent with this chapter is void and unenforceable.

(3) The agency must maintain the records covered by this chapter for a period of six years. The agency's records identifying a client are considered "health care information" and the provisions of chapter 70.02 RCW apply. The client must have access upon request to the agency's records concerning the client and covered by this chapter.

NEW SECTION. Sec. 6. (1) An agency must provide a disclosure statement to each client prior to making a referral. A disclosure statement is not required when the agency is only providing information to a person. The disclosure statement must be acknowledged by the client prior to the referral and the agency shall retain a copy of the disclosure statement and acknowledgment. Acknowledgment may be in the form of:

(a) A signature of the client or legal representative on the exact disclosure statement;

(b) An electronic signature that includes the date, time, internet provider address, and displays the exact disclosure statement document;

(c) A faxed confirmation that includes the date, time, and fax number and displaying the exact disclosure statement document; or

(d) In instances where a vulnerable adult chooses not to sign or otherwise provide acknowledgment of the disclosure statement, the referral professional or agency may satisfy the acknowledgment requirement of this subsection (1) by documenting the client's refusal to sign.

(2) The disclosure statement must be dated and must contain the following information:

(a) The name, address, and telephone number of the agency;

(b) The name of the client;

(c) The amount of the fee to be received from the client, if any. Alternatively, if the fee is to be received from the provider, the method of computation of the fee and the time and method of payment. In addition, the agency shall disclose to the client the amount of fee to be received from the provider, if the client requests such information;

(d) A clear description of the services provided by the agency in general, and to be provided specifically for the client;

(e) A provision stating that the agency may not require or request clients to sign waivers of potential liability for losses of personal property or injury, or to sign waivers of any rights of the client established in state or federal law;

(f) A provision stating that the agency works with both the client and the care services or supportive housing provider in the same transaction, and an explanation that the agency will need the client's authorization to obtain or disclose confidential health care information;

(g) A provision stating whether the agency has visited the supportive housing provider or providers to whom they will be referring the client and, if so, when that visit took place;

(h) A provision stating that the client may, without cause, stop using the agency or switch to another agency without penalty or cancellation fee to the client;

(i) An explanation of the agency's refund of fees policy, which must be consistent with section 10 of this act;

(j) A statement that the client may file a complaint with the attorney general's office for violations of this chapter, including the name, address, and telephone number of the consumer protection division of that office; and

(k) If the agency or its personnel who are directly involved in providing referrals to clients, including the personnel's immediate family members, have an ownership interest in the supportive housing or care services to which the client is given a referral, a provision stating that the agency or such personnel or their immediate family members have an ownership interest in the supportive housing or care services to which the client is given referral services, and, if such ownership interest exists, an explanation of that interest.

NEW SECTION. Sec. 7. (1) The agency shall use a standardized intake form for all clients prior to making a referral. The intake form must, at a minimum, contain the following data regarding the vulnerable adult:

(a) Recent medical history, as relevant to the referral process;

(b) Known medications and medication management needs;

(c) Known medical diagnoses, health concerns, and the reasons the client is seeking supportive housing or care services;

(d) Significant known behaviors or symptoms that may cause concern or require special care;

(e) Mental illness, dementia, or developmental disability diagnosis, if any;

(f) Assistance needed for daily living;

(g) Particular cultural or language access needs and accommodations;

(h) Activity preferences;

(i) Sleeping habits of the vulnerable adult, if known;

(j) Basic information about the financial situation of the vulnerable adult and the availability of any long-term care insurance or financial assistance, including medicaid, which may be helpful in defining supportive housing and care services options for the vulnerable adult;

(k) Current living situation of the client;

(l) Geographic location preferences; and

(m) Preferences regarding other issues important to the client, such as food and daily routine.

(2) The agency shall obtain the intake information from the most available sources, such as from the client, the client's representative, or a health care professional, and shall allow the vulnerable adult to participate to the maximum extent possible. The agency may not obtain or disclose health care information, as defined in RCW 70.02.010, without the authorization of the client or the client's representative.

(3) The agency may provide information to a person about the types of supportive housing or care services available in the area that may meet the needs of elderly or vulnerable adults without the need to complete an intake form or provide a disclosure statement, if the agency does not make a referral or request or receive any fee. In addition, the agency may provide the names of specific providers to a social worker, discharge planner, case manager, professional guardian, nurse, or other professional who is assisting a vulnerable adult locate supportive housing or care services, provided the agency does not request or receive any fee.

NEW SECTION. Sec. 8. (1) The agency may choose to provide a referral for the client by either giving the client the name or names of specific providers who may meet the needs of the vulnerable adult identified in the intake form or by giving a provider or providers the name of the client after obtaining the authorization of the client or the client's representative.

(2)(a) Prior to making a referral to a specific provider, the agency shall speak with a representative of the provider and obtain, at a minimum, the following general information, which must be dated and retained in the agency's records:

- (i) The type of license held by the provider and license number;
- (ii) Whether the provider is authorized by license to provide care to individuals with a mental illness, dementia, or developmental disability;
- (iii) Sources of payment accepted, including whether medicaid is accepted;
- (iv) General level of medication management services provided;
- (v) General level and types of personal care services provided;
- (vi) Particular cultural needs that may be accommodated;
- (vii) Primary language spoken by care providers;
- (viii) Activities typically provided;
- (ix) Behavioral problems or symptoms that can or cannot be met;
- (x) Food preferences and special diets that can be accommodated; and
- (xi) Other special care or services available.

(b) The agency shall update this information regarding the provider at least annually. To the extent practicable, referrals shall be made to providers who appear, in the best judgment of the agency, capable of meeting the vulnerable adult's identified needs.

(3) Prior to making a referral of a supportive housing provider, the agency shall conduct a search, and inform the client that a search was conducted, of the department of social and health service's web site to see if the provider is in enforcement status for violation of its licensing regulations. Prior to making a referral of a care services provider, the agency shall conduct a search, and inform the client that a search was conducted, of the department of health's web site to determine if the provider is in enforcement status for violation of its licensing regulations. The searches required by this subsection must be considered timely if done within thirty days before the referral. The information obtained by the agency from the searches must be disclosed in writing to the client if the referral includes that provider.

NEW SECTION. Sec. 9. Nothing in this chapter will limit, specify, or otherwise regulate the fees charged by an agency to a provider for a referral.

NEW SECTION. Sec. 10. (1) The agency shall clearly disclose its fees and refund policies to clients and providers. If the agency receives a fee regarding a client who was provided referral services for supportive housing, and the vulnerable adult dies, is hospitalized, or is transferred to another supportive housing setting for more appropriate care within the first thirty days of admission, then the agency shall refund a portion of its fee to the person who paid it, whether that is the client or the supportive housing provider. The amount refunded must be a prorated portion of the agency's fees, based upon a per diem calculation for the days that the client resided or retained a bed in the supportive housing.

(2) A refund policy inconsistent with this section is void and unenforceable.

(3) This section does not limit the application of other remedies, including the consumer protection act, chapter 19.86 RCW.

NEW SECTION. Sec. 11. Any employee, owner, or operator of an agency that works with vulnerable adults must pass a criminal background check every twenty-four months and not have been convicted of any crime that is disqualifying under RCW 43.43.830 or 43.43.842, or been found by a court of law or disciplinary authority to have abused, neglected, financially exploited, or abandoned a minor or vulnerable adult.

NEW SECTION. Sec. 12. An agency may not charge or accept a fee or other consideration from a client, care services

provider, or supportive housing provider unless the agency substantially complies with the terms of this chapter.

NEW SECTION. Sec. 13. (1) The provisions of this chapter relating to the regulation of private elder and vulnerable adult referral agencies are exclusive.

(2) This chapter may not be construed to affect or reduce the authority of any political subdivision of the state of Washington to provide for the licensing of private elder and vulnerable adult referral agencies solely for revenue purposes.

NEW SECTION. Sec. 14. In accordance with RCW 74.09.240, the agency may not solicit or receive any remuneration directly or indirectly, overtly or covertly, in cash or in kind, in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under chapter 74.09 RCW.

NEW SECTION. Sec. 15. The legislature finds that the operation of an agency in violation of this chapter is a matter vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Such a violation is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

NEW SECTION. Sec. 16. Agencies and their employees, owners, and officers will not be considered providers and will not be liable or responsible for the acts or omissions of a provider.

NEW SECTION. Sec. 17. The department of licensing shall convene a work group of stakeholders to consider the feasibility of establishing licensure for elder and vulnerable adult referral agencies described in this act. The work group will provide recommendations to the legislature by December 1, 2011.

NEW SECTION. Sec. 18. This chapter may be known and cited as the "elder and vulnerable adult referral agency act."

NEW SECTION. Sec. 19. Sections 1 through 18 of this act constitute a new chapter in Title 18 RCW.

NEW SECTION. Sec. 20. This act takes effect January 1, 2012.

NEW SECTION. Sec. 21. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

On page 1, line 1 of the title, after "referrals;" strike the remainder of the title and insert "adding a new chapter to Title 18 RCW; prescribing penalties; and providing an effective date."

The President declared the question before the Senate to be the motion by Senator Keiser to not adopt the committee striking amendment by the Committee on Health & Long-Term Care to Engrossed Substitute House Bill No. 1494.

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

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that locating acceptable housing and appropriate care for vulnerable adults is an important aspect of providing an appropriate continuity of care for senior citizens.

(2) The legislature further finds that locating appropriate and quality housing alternatives sometimes depends on elder and vulnerable adult referral agencies attempting to assist with referral.

(3) The legislature further finds that vulnerable adult referral professionals should be required to meet certain minimum

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requirements to promote better integration of vulnerable adult housing choices.

(4) The legislature further finds that the requirement that elder and vulnerable adult referral agencies meet minimum standards of conduct is in the interest of public health, safety, and welfare.

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

(1) "Care services" means any combination of services, including in-home care, private duty care, or private duty nursing designed for or with the goal of allowing vulnerable adults to receive care and related services at home or in a home-like setting. Care service providers must include home health agencies and in-home service agencies licensed under chapter 70.127 RCW.

(2) "Client" means an elder person or a vulnerable adult, or his or her representative if any, seeking a referral or assistance with entering into an arrangement for supportive housing or care services in Washington state through an elder and vulnerable adult referral agency. For purposes of this chapter, the "client's representative" means the person authorized under RCW 7.70.065 or other laws to provide informed consent for an individual unable to do so. "Client" may also mean a person seeking a referral for supportive housing or care services on behalf of the elder person or vulnerable adult through an elder care referral service: PROVIDED, That such a person is a family member, relative, or domestic partner of the senior or vulnerable adult.

(3) "Elder and vulnerable adult referral agency" or "agency" means a business or person who receives a fee from or on behalf of a vulnerable adult seeking a referral to care services or supportive housing, or who receives a fee from a care services provider or supportive housing provider because of any referral provided to or on behalf of a vulnerable adult.

(4) "Fee" means anything of value. "Fee" includes money or other valuable consideration or services or the promise of money or other valuable consideration or services, received directly or indirectly by an elder and vulnerable adult referral agency.

(5) "Information" means the provision of general information by an agency to a person about the types of supportive housing or care services available in the area that may meet the needs of elderly or vulnerable adults without giving the person the names of specific providers of care services or supportive housing, or giving a provider the name of the person or vulnerable adult. Information also means the provision by an agency of the names of specific providers to a social worker, discharge planner, case manager, professional guardian, nurse, or other professional who is assisting a vulnerable adult locate supportive housing or care services, where the agency does not request or receive any fee.

(6) "Person" includes any individual, firm, corporation, partnership, association, company, society, manager, contractor, subcontractor, bureau, agency, organization, service, office, or an agent or any of their employees.

(7) "Provider" means any entity or person that both provides supportive housing or care services to a vulnerable adult for a fee and provides or is required to provide such housing or services under a state or local business license specific to such housing or services.

(8) "Referral" means the act of an agency giving a client the name or names of specific providers of care services or supportive housing that may meet the needs of the vulnerable adult identified in the intake form described in section 7 of this act, or the agency gives a provider the name of a client for the purposes of enabling the provider to contact the client regarding care services or supportive housing provided by that provider.

(9) "Supportive housing" means any type of housing that includes services for care needs and is designed for prospective

residents who are vulnerable adults. Supportive housing includes, but is not limited to, nursing homes licensed under chapter 18.51 RCW, boarding homes licensed under chapter 18.20 RCW, adult family homes licensed under chapter 70.128 RCW, and continuing care retirement communities under RCW 70.38.025.

(10) "Vulnerable adult" has the same meaning as in RCW 74.34.020.

NEW SECTION. Sec. 3. (1) As of January 1, 2012, a business or person operating or maintaining an agency in this state is subject to the provisions of this chapter. An agency must maintain general and professional liability insurance to cover the acts and services of the agency. The combined liability insurance coverage required is one million dollars.

(2) The agency may not create an exclusive agreement between the agency and the client, or between the agency and a provider. The agency cannot provide referral services to a client where the only names given to the client are of providers in which the agency or its personnel or immediate family members have an ownership interest in those providers. An agreement entered into between an agency and a provider must allow either the provider or the agency to cancel the agreement with specific payment terms regarding pending fees or commissions outlined in the agreement.

(3) The marketing materials, informational brochures, and web sites owned or operated by an agency, and concerning information or referral services for elderly or vulnerable adults, must include a clear identification of the agency.

(4) All owners, operators, and employees of an agency shall be considered mandated reporters under the vulnerable adults act, chapter 74.34 RCW. No agency may develop or enforce any policies or procedures that interfere with the reporting requirements of chapter 74.34 RCW.

NEW SECTION. Sec. 4. Nothing in this chapter may be construed to prohibit, restrict, or apply to:

(1) Any home health or hospice agency while providing counseling to patients on placement options in the normal course of practice;

(2) Government entities providing information and assistance to vulnerable adults unless making a referral in which a fee is received from a client;

(3) Professional guardians providing services under authority of their guardianship appointment;

(4) Supportive housing or care services providers who make referrals to other supportive housing or care services providers where no monetary value is exchanged;

(5) Social workers, discharge planners, or other social services staff assisting a vulnerable adult to define supportive housing or care services providers in the course of their employment responsibilities if they do not receive any monetary value from a provider; or

(6) Any person to the extent that he or she provides information to another person.

NEW SECTION. Sec. 5. (1) Each agency shall keep records of all referrals rendered to or on behalf of clients. These records must contain:

(a) The name of the vulnerable adult, and the address and phone number of the client or the client's representative, if any;

(b) The kind of supportive housing or care services for which referral was sought;

(c) The location of the care services or supportive housing referred to the client and probable duration, if known;

(d) The monthly or unit cost of the supportive housing or care services, if known;

(e) If applicable, the amount of the agency's fee to the client or to the provider;

(f) If applicable, the dates and amounts of refund of the agency's fee, if any, and reason for such refund; and

(g) A copy of the client's disclosure and intake forms described in sections 6 and 7 of this act.

(2) Each agency shall also keep records of any contract or written agreement entered into with any provider for services rendered to or on behalf of a vulnerable adult, including any referrals to a provider. Any provision in a contract or written agreement not consistent with this chapter is void and unenforceable.

(3) The agency must maintain the records covered by this chapter for a period of six years. The agency's records identifying a client are considered "health care information" and the provisions of chapter 70.02 RCW apply. The client must have access upon request to the agency's records concerning the client and covered by this chapter.

NEW SECTION. Sec. 6. (1) An agency must provide a disclosure statement to each client prior to making a referral. A disclosure statement is not required when the agency is only providing information to a person. The disclosure statement must be acknowledged by the client prior to the referral and the agency shall retain a copy of the disclosure statement and acknowledgment. Acknowledgment may be in the form of:

(a) A signature of the client or legal representative on the exact disclosure statement;

(b) An electronic signature that includes the date, time, internet provider address, and displays the exact disclosure statement document;

(c) A faxed confirmation that includes the date, time, and fax number and displaying the exact disclosure statement document; or

(d) In instances where a vulnerable adult chooses not to sign or otherwise provide acknowledgment of the disclosure statement, the referral professional or agency may satisfy the acknowledgment requirement of this subsection (1) by documenting the client's refusal to sign.

(2) The disclosure statement must be dated and must contain the following information:

(a) The name, address, and telephone number of the agency;

(b) The name of the client;

(c) The amount of the fee to be received from the client, if any. Alternatively, if the fee is to be received from the provider, the method of computation of the fee and the time and method of payment. In addition, the agency shall disclose to the client the amount of fee to be received from the provider, if the client requests such information;

(d) A clear description of the services provided by the agency in general, and to be provided specifically for the client;

(e) A provision stating that the agency may not require or request clients to sign waivers of potential liability for losses of personal property or injury, or to sign waivers of any rights of the client established in state or federal law;

(f) A provision stating that the agency works with both the client and the care services or supportive housing provider in the same transaction, and an explanation that the agency will need the client's authorization to obtain or disclose confidential health care information;

(g) A statement indicating the frequency on which the agency regularly tours provider facilities, and that, at the time of referral, the agency will inform the client in writing or by electronic means if the agency has toured the referred supportive housing provider or providers, and if so, the most recent date that tour took place;

(h) A provision stating that the client may, without cause, stop using the agency or switch to another agency without penalty or cancellation fee to the client;

(i) An explanation of the agency's refund of fees policy, which must be consistent with section 10 of this act;

(j) A statement that the client may file a complaint with the attorney general's office for violations of this chapter, including the

name, address, and telephone number of the consumer protection division of that office; and

(k) If the agency or its personnel who are directly involved in providing referrals to clients, including the personnel's immediate family members, have an ownership interest in the supportive housing or care services to which the client is given a referral, a provision stating that the agency or such personnel or their immediate family members have an ownership interest in the supportive housing or care services to which the client is given referral services, and, if such ownership interest exists, an explanation of that interest.

NEW SECTION. Sec. 7. (1) The agency shall use a standardized intake form for all clients prior to making a referral. The intake form must, at a minimum, contain the following information regarding the vulnerable adult:

(a) Recent medical history, as relevant to the referral process;

(b) Known medications and medication management needs;

(c) Known medical diagnoses, health concerns, and the reasons the client is seeking supportive housing or care services;

(d) Significant known behaviors or symptoms that may cause concern or require special care;

(e) Mental illness, dementia, or developmental disability diagnosis, if any;

(f) Assistance needed for daily living;

(g) Particular cultural or language access needs and accommodations;

(h) Activity preferences;

(i) Sleeping habits of the vulnerable adult, if known;

(j) Basic information about the financial situation of the vulnerable adult and the availability of any long-term care insurance or financial assistance, including medicaid, which may be helpful in defining supportive housing and care services options for the vulnerable adult;

(k) Current living situation of the client;

(l) Geographic location preferences; and

(m) Preferences regarding other issues important to the client, such as food and daily routine.

(2) The agency shall obtain the intake information from the most available sources, such as from the client, the client's representative, or a health care professional, and shall allow the vulnerable adult to participate to the maximum extent possible.

(3) The agency may provide information to a person about the types of supportive housing or care services available in the area that may meet the needs of elderly or vulnerable adults without the need to complete an intake form or provide a disclosure statement, if the agency does not make a referral or request or receive any fee. In addition, the agency may provide the names of specific providers to a social worker, discharge planner, case manager, professional guardian, nurse, or other professional who is assisting a vulnerable adult locate supportive housing or care services, provided the agency does not request or receive any fee.

NEW SECTION. Sec. 8. (1) The agency may choose to provide a referral for the client by either giving the client the name or names of specific providers who may meet the needs of the vulnerable adult identified in the intake form or by giving a provider or providers the name of the client after obtaining the authorization of the client or the client's representative.

(2)(a) Prior to making a referral to a specific provider, the agency shall speak with a representative of the provider and obtain, at a minimum, the following general information, which must be dated and retained in the agency's records:

(i) The type of license held by the provider and license number;

(ii) Whether the provider is authorized by license to provide care to individuals with a mental illness, dementia, or developmental disability;

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- (iii) Sources of payment accepted, including whether medicaid is accepted;
- (iv) General level of medication management services provided;
- (v) General level and types of personal care services provided;
- (vi) Particular cultural needs that may be accommodated;
- (vii) Primary language spoken by care providers;
- (viii) Activities typically provided;
- (ix) Behavioral problems or symptoms that can or cannot be met;
- (x) Food preferences and special diets that can be accommodated; and
- (xi) Other special care or services available.

(b) The agency shall update this information regarding the provider at least annually. To the extent practicable, referrals shall be made to providers who appear, in the best judgment of the agency, capable of meeting the vulnerable adult's identified needs.

(3) Prior to making a referral of a supportive housing provider, the agency shall conduct a search, and inform the client that a search was conducted, of the department of social and health service's web site to see if the provider is in enforcement status for violation of its licensing regulations. Prior to making a referral of a care services provider, the agency shall conduct a search, and inform the client that a search was conducted, of the department of health's web site to determine if the provider is in enforcement status for violation of its licensing regulations. The searches required by this subsection must be considered timely if done within thirty days before the referral. The information obtained by the agency from the searches must be disclosed in writing to the client if the referral includes that provider.

NEW SECTION. Sec. 9. Nothing in this chapter will limit, specify, or otherwise regulate the fees charged by an agency to a provider for a referral.

NEW SECTION. Sec. 10. (1) The agency shall clearly disclose its fees and refund policies to clients and providers. If the agency receives a fee regarding a client who was provided referral services for supportive housing, and the vulnerable adult dies, is hospitalized, or is transferred to another supportive housing setting for more appropriate care within the first thirty days of admission, then the agency shall refund a portion of its fee to the person who paid it, whether that is the client or the supportive housing provider. The amount refunded must be a prorated portion of the agency's fees, based upon a per diem calculation for the days that the client resided or retained a bed in the supportive housing.

(2) A refund policy inconsistent with this section is void and unenforceable.

(3) This section does not limit the application of other remedies, including the consumer protection act, chapter 19.86 RCW.

NEW SECTION. Sec. 11. Any employee, owner, or operator of an agency that works with vulnerable adults must pass a criminal background check every twenty-four months and not have been convicted of any crime that is disqualifying under RCW 43.43.830 or 43.43.842, or been found by a court of law or disciplinary authority to have abused, neglected, financially exploited, or abandoned a minor or vulnerable adult.

NEW SECTION. Sec. 12. An agency may not charge or accept a fee or other consideration from a client, care services provider, or supportive housing provider unless the agency substantially complies with the terms of this chapter.

NEW SECTION. Sec. 13. (1) The provisions of this chapter relating to the regulation of private elder and vulnerable adult referral agencies are exclusive.

(2) This chapter may not be construed to affect or reduce the authority of any political subdivision of the state of Washington to

provide for the licensing of private elder and vulnerable adult referral agencies solely for revenue purposes.

NEW SECTION. Sec. 14. In accordance with RCW 74.09.240, the agency may not solicit or receive any remuneration directly or indirectly, overtly or covertly, in cash or in kind, in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under chapter 74.09 RCW.

NEW SECTION. Sec. 15. The legislature finds that the operation of an agency in violation of this chapter is a matter vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Such a violation is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

NEW SECTION. Sec. 16. Agencies and their employees, owners, and officers will not be considered providers and will not be liable or responsible for the acts or omissions of a provider.

NEW SECTION. Sec. 17. The department of licensing shall convene a work group of stakeholders to consider the feasibility of establishing licensure for elder and vulnerable adult referral agencies described in this act. The work group will provide recommendations to the legislature by December 1, 2011.

NEW SECTION. Sec. 18. This chapter may be known and cited as the "elder and vulnerable adult referral agency act."

NEW SECTION. Sec. 19. Sections 1 through 18 of this act constitute a new chapter in Title 18 RCW.

NEW SECTION. Sec. 20. This act takes effect January 1, 2012.

NEW SECTION. Sec. 21. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

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

MOTION

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

On page 5, line 6, after "apply", insert "but only to the extent that such information meets the definition of "health care information" under RCW 70.02.010(7)"

On page 9, after line 2, insert "(4) By January 1, 2012, the department of social and health services and the department of health must convene a workgroup of stakeholders to collaboratively identify and implement a uniform standard for the information pertaining to the enforcement status of a provider that must be disclosed to the client under subsection (3) of this section. The uniform standard must clearly identify what elements of an enforcement action should be included under the disclosure requirements of subsection (3) of this section. Agencies will have no liability or responsibility for the accuracy, completeness, timeliness or currency of information shared in the prescribed format and are immune from any cause of action rising from their reliance on, use of, or distribution of this information."

Senator Becker 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 Becker and Keiser on page 5, line 6 to the striking amendment to Engrossed Substitute House Bill No. 1494.

The motion by Senator Becker 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 Keiser and Becker as amended to Engrossed Substitute House Bill No. 1494.

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 1 of the title, after "referrals;" strike the remainder of the title and insert "adding a new chapter to Title 18 RCW; prescribing penalties; and providing an effective date."

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute House Bill No. 1494 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1494 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1494 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 32; Nays, 17; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Benton, Carrell, Delvin, Ericksen, Hewitt, Hill, Holmquist Newbry, Honeyford, King, Morton, Parlette, Roach, Schoesler, Stevens and Swecker

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1494 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Ericksen, Senator Pflug was excused.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1332, by House Committee on Local Government (originally sponsored by Representatives Eddy, Anderson, Goodman, Takko, Liias, Springer, Rodne, Hurst and Tharinger)

Providing for the joint provision and management of municipal water, wastewater, storm and flood water, and related utility services.

The measure was read the second time.

MOTION

Senator Pridemore moved that the following committee striking amendment by the Committee on Government Operations, Tribal Relations & Elections be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** TITLE OF ACT--DECLARATION OF PURPOSE. (1) This act shall be known as the joint municipal utility services act.

(2) It is the purpose of this act to improve the ability of local government utilities to plan, finance, construct, acquire, maintain, operate, and provide facilities and utility services to the public, and to reduce costs and improve the benefits, efficiency, and quality of utility services.

(3) This act is intended to facilitate joint municipal utility services and is not intended to expand the types of services provided by local governments or their utilities. Further, nothing in this act is intended to alter the regulatory powers of cities, counties, or other local governments or state agencies that exercise such powers. Further, nothing in this act may be construed to alter the underlying authority of the units of local government that enter into agreements under this act or to diminish in any way the authority of local governments to enter into agreements under chapter 39.34 RCW or other applicable law.

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

(1) "Agreement" means a joint municipal utility services agreement, among members, that forms an authority, as more fully described in this chapter.

(2) "Authority" means a joint municipal utility services authority formed under this chapter.

(3) "Board of directors" or "board" means the board of directors of an authority.

(4) "Member" means a city, town, county, water-sewer district, public utility district, other special purpose district, municipal corporation, or other unit of local government of this or another state that provides utility services, and any Indian tribe recognized as such by the United States government, that is a party to an agreement forming an authority.

(5) "Utility services," for purposes of this chapter, means any or all of the following functions: The provision of retail or wholesale water supply and water conservation services; the provision of wastewater, sewage, or septage collection, handling, treatment, transmission, or disposal services; the provision of point and nonpoint water pollution monitoring programs; the provision for the generation, production, storage, distribution, use, or management of reclaimed water; and the management and handling of storm water, surface water, drainage, and flood waters.

NEW SECTION. **Sec. 3.** FORMATION OF JOINT MUNICIPAL UTILITY SERVICES AUTHORITIES--CHARACTERISTICS--SUBSTANTIVE

POWERS. (1) An authority may be formed by two or more members pursuant to this chapter by execution of a joint municipal utility services agreement that materially complies with the requirements of section 5 of this act. Except as otherwise provided in section 8 of this act, at the time of execution of an agreement each member must be providing the type of utility service or services that will be provided by the authority. The agreement must be approved by the legislative authority of each of the members. The agreement must be filed with the Washington state secretary of state, who must provide a certificate of filing with respect to any authority. An authority shall be deemed to have been formed as of the date of that filing. The formation and activities of an authority, and the admission or withdrawal of members, are not subject to

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review by any boundary review board. Any amendments to an agreement must be filed with the Washington state secretary of state, and will become effective on the date of filing.

(2) An authority is a municipal corporation. Subject to section 4(3) of this act, the provisions of a joint municipal utility services agreement, and any limitations imposed pursuant to section 5 of this act: (a) An authority may perform or provide any or all of the utility service or services that all of its members, other than tribal government members, perform or provide under applicable law; and (b) in performing or providing those utility services, an authority may exercise any or all of the powers described in section 4(1) of this act.

(3) An authority shall be entitled to all the immunities and exemptions that are available to local governmental entities under applicable law, including without limitation the provisions of chapter 4.96 RCW. Notwithstanding this subsection (3), if all of an authority's members are the same type of Washington local government entity, then the immunities and exemptions available to that type of entity shall govern.

(4) Nothing in this chapter shall diminish a member's powers in connection with its provision or management of utility services, or its taxing power with respect to those services, nor does this chapter diminish in any way the authority of local governments to enter into agreements under chapter 39.34 RCW or other applicable law.

(5) Nothing in this chapter shall impair or diminish a valid water right, including rights established under state law and rights established under federal law.

NEW SECTION. Sec. 4. CORPORATE POWERS OF JOINT MUNICIPAL UTILITY SERVICES AUTHORITIES. (1) For the purpose of performing or providing utility services, and subject to subsection (3) of this section and section 5 of this act, an authority has and is entitled to exercise the following powers:

(a) To sue and be sued, complain and defend, in its corporate name;

(b) To have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced;

(c) To purchase, take, receive, take by lease, condemn, receive by grant, or otherwise acquire, and to own, hold, improve, use, operate, maintain, add to, extend, and fully control the use of and otherwise deal in and with, real or personal property or property rights, including without limitation water and water rights, or other assets, or any interest therein, wherever situated;

(d) To sell, convey, lease out, exchange, transfer, surplus, and otherwise dispose of all or any part of its property and assets;

(e) To incur liabilities for any of its utility services purposes, to borrow money at such rates of interest as the authority may determine, to issue its bonds, notes, and other obligations, and to pledge any or all of its revenues to the repayment of bonds, notes, and other obligations;

(f) To enter into contracts for any of its utility services purposes with any individual or entity, both public and private, and to enter into intergovernmental agreements with its members and with other public agencies;

(g) To be eligible to apply for and to receive state, federal, and private grants, loans, and assistance that any of its members are eligible to receive in connection with the development, design, acquisition, construction, maintenance, and/or operation of facilities and programs for utility services;

(h) To adopt and alter rules, policies, and guidelines, not inconsistent with this chapter or with other laws of this state, for the administration and regulation of the affairs and assets of the authority;

(i) To obtain insurance, to self-insure, and to participate in pool insurance programs;

(j) To indemnify any officer, director, employee, volunteer, or former officer, employee, or volunteer, or any member, for acts, errors, or omissions performed in the exercise of their duties in the manner approved by the board;

(k) To employ such persons, as public employees, that the board determines are needed to carry out the authority's purposes and to fix wages, salaries, and benefits, and to establish any bond requirements for those employees;

(l) To provide for and pay pensions and participate in pension plans and other benefit plans for any or all of its officers or employees, as public employees;

(m) To determine and impose fees, rates, and charges for its utility services;

(n) Subject to section 5(20) of this act, to have a lien for delinquent and unpaid rates and charges for retail connections and retail utility service to the public, together with recording fees and penalties (not exceeding eight percent) determined by the board, including interest (at a rate determined by the board) on such rates, charges, fees, and penalties, against the premises to which such service has been furnished or is available, which lien shall be superior to all other liens and encumbrances except general taxes and local and special assessments;

(o) To make expenditures to promote and advertise its programs, educate its members, customers, and the general public, and provide and support conservation and other practices in connection with providing utility services;

(p) With the consent of the member within whose geographic boundaries an authority is so acting, to compel all property owners within an area served by a wastewater collection system owned or operated by an authority to connect their private drain and sewer systems with that system, or to participate in and follow the requirements of an inspection and maintenance program for on-site systems, and to pay associated rates and charges, under such terms and conditions, and such penalties, as the board shall prescribe by resolution;

(q) With the consent of the member within whose geographic or service area boundaries an authority is so acting, to create local improvement districts or utility local improvement districts, to impose and collect assessments and to issue bonds and notes, all consistent with the statutes governing local improvement districts or utility local improvement districts applicable to the member that has provided such consent. Notwithstanding this subsection (1)(q), the guaranty fund provisions of chapter 35.54 RCW shall not apply to a local improvement district created by an authority;

(r) To receive contributions or other transfers of real and personal property and property rights, money, other assets, and franchise rights, wherever situated, from its members or from any other person;

(s) To prepare and submit plans relating to utility services on behalf of itself or its members;

(t) To terminate its operations, wind up its affairs, dissolve, and provide for the handling and distribution of its assets and liabilities in a manner consistent with the applicable agreement;

(u) To transfer its assets, rights, obligations, and liabilities to a successor entity, including without limitation a successor authority or municipal corporation;

(v) Subject to subsection (3) of this section, section 5 of this act, and applicable law, to have and exercise any other corporate powers capable of being exercised by any of its members in providing utility services;

(2) An authority, as a municipal corporation, is subject to the public records act (chapter 42.56 RCW), the open public meetings act (chapter 42.30 RCW), and the code of ethics for municipal officers (chapter 42.23 RCW), and an authority is subject to audit by the state auditor under chapter 43.09 RCW.

(3) In the exercise of its powers in connection with performing or providing utility services, an authority is subject to the following:

(a) An authority has no power to levy taxes.

(b) An authority has the power of eminent domain as necessary to perform or provide utility services, but only if all of its members, other than tribal government members, have powers of eminent domain. Further, an authority may exercise the power of eminent domain only pursuant to the provisions of Washington law, in the manner and subject to the statutory limitations applicable to one or more of its Washington local government members. If all of its members are the same type of Washington governmental entity, then the statute governing the exercise of eminent domain by that type of entity shall govern. An authority may not exercise the power of eminent domain with respect to property owned by a city, town, county, special purpose district, authority, or other unit of local government, but may acquire or use such property under mutually agreed upon terms and conditions.

(c) An authority may pledge its revenues in connection with its obligations, and may acquire property or property rights through and subject to the terms of a conditional sales contract, a real estate contract, or a financing contract under chapter 39.94 RCW, or other federal or state financing program. However, an authority must not in any other manner mortgage or provide security interests in its real or personal property or property rights. As a local governmental entity without taxing power, an authority may not issue general obligation bonds. However, an authority may pledge its full faith and credit to the payment of amounts due pursuant to a financing contract under chapter 39.94 RCW or other federal or state financing program.

(d) In order for an authority to provide a particular utility service in a geographical area, one or more of its members must have authority, under applicable law, to provide that utility service in that geographical area.

(e) As a separate municipal corporation, an authority's obligations and liabilities are its own and are not obligations or liabilities of its members except to the extent and in the manner established under the provisions of an agreement or otherwise expressly provided by contract.

(f) Upon its dissolution, after provision is made for an authority's liabilities, remaining assets must be distributed to a successor entity, or to one or more of the members, or to another public body of this state.

NEW SECTION. Sec. 5. ELEMENTS OF JOINT MUNICIPAL UTILITY SERVICES AGREEMENTS. A joint municipal utility services agreement that forms and governs an authority must include the elements described in this section, together with such other provisions an authority's members deem appropriate. However, the failure of an agreement to include each and every one of the elements described in this section shall not render the agreement invalid. An agreement must:

(1) Identify the members, together with conditions upon which additional members that are providing utility services may join the authority, the conditions upon which members may or must withdraw, including provisions for handling of relevant assets and liabilities upon a withdrawal, and the effect of boundary adjustments of the authority and boundary adjustments between or among members;

(2) State the name of the authority;

(3) Describe the utility services that the authority will provide;

(4) Specify how the number of directors of the authority's board will be determined, and how those directors will be appointed. Each director on the board of an authority must be an elected official of a member. Except as limited by an agreement, an authority's board may exercise the authority's powers;

(5) Describe how votes of the members represented on the authority's board are to be weighted, and set forth any limitations on

the exercise of powers of the authority's board, which may include, by way of example, requirements that certain decisions be made by a supermajority of members represented on an authority's board, based on the number of members and/or some other factor or factors, and that certain decisions be ratified by the legislative authorities of the members;

(6) Describe how the agreement is to be amended;

(7) Describe how the authority's rules may be adopted and amended;

(8) Specify the circumstances under which the authority may be dissolved, and how it may terminate its operations, wind up its affairs, and provide for the handling, assumption, and/or distribution of its assets and liabilities;

(9) List any legally authorized substantive or corporate powers that the authority will not exercise;

(10) Specify under which personnel laws the authority will operate, which may be the personnel laws applicable to any one of its Washington local government members;

(11) Specify under which public works and procurement laws the authority will operate, which may be the public works and procurement laws applicable to any one of its Washington local government members;

(12) Consistent with section 4(3)(b) of this act, specify under which Washington eminent domain laws any condemnations by the authority will be subject;

(13) Specify how the treasurer of the authority will be appointed, which may be an officer or employee of the authority, the treasurer or chief finance officer of any Washington local government member, or the treasurer of any Washington county in which any member of the authority is located. However, if the total number of utility customers of all of the members of an authority does not exceed two thousand five hundred, the treasurer of an authority must be either the treasurer of any member or the treasurer of a county in which any member of the authority is located;

(14) Specify under which Washington state statute or statutes surplus property of the authority will be disposed;

(15) Describe how the authority's budgets will be prepared and adopted;

(16) Describe how any assets of members that are transferred to or managed by the authority will be accounted for;

(17) Generally describe the financial obligations of members to the authority;

(18) Describe how rates and charges imposed by the authority, if any, will be determined. An agreement may specify a specific Washington state statute applicable to one or all of its members for the purpose of governing rate-setting criteria applicable to retail customers, if any;

(19) Specify the Washington state statute or statutes under which bonds, notes, and other obligations of the authority will be issued for the purpose of performing or providing utility services, which must be a bond issuance statute applicable to one or more of its members other than a tribal member. If all of its members are the same type of Washington governmental entity, then a Washington state statute or statutes governing the issuance of bonds, notes, and other obligations issued by that type of entity shall govern;

(20) Specify under which Washington state statute or statutes any liens of an authority shall be exercised, which must be statutes applicable to the type or types of utility service for which the lien shall apply. Further, if all of its members are the same type of Washington governmental entity, then the statute or statutes governing that type of entity shall govern;

(21) Include any other provisions deemed necessary and appropriate by the members.

NEW SECTION. Sec. 6. AUTHORITY OF MEMBERS TO ASSIST AUTHORITY AND TO TRANSFER FUNDS,

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PROPERTY, AND OTHER ASSETS. For the purpose of assisting the authority in providing utility services, the members of an authority are authorized, with or without payment or other consideration and without submitting the matter to the electors of those members, to lease, convey, transfer, assign, or otherwise make available to an authority any money, real or personal property or property rights, other assets including licenses, water rights (subject to applicable law), other property (whether held by a member's utility or by a member's general government), or franchises or rights thereunder.

NEW SECTION. Sec. 7. TAX EXEMPTIONS AND PREFERENCES. (1) As a municipal corporation, the property of an authority is exempt from taxation.

(2) An authority is entitled to all of the exemptions from or preferences with respect to taxes that are available to any or all of its members, other than a tribal member, in connection with the provision or management of utility services.

NEW SECTION. Sec. 8. CONVERSION OF EXISTING ENTITIES INTO AUTHORITIES. (1) Any intergovernmental entity formed under chapter 39.34 RCW or other applicable law may become a joint municipal utility services authority and be entitled to all the powers and privileges available under this chapter, if: (a) The public agencies that are parties to an existing interlocal agreement would otherwise be eligible to form an authority to provide the relevant utility services; (b) the public agencies that are parties to the existing interlocal agreement amend, restate, or replace that interlocal agreement so that it materially complies with the requirements of section 5 of this act; (c) the amended, restated, or replacement agreement is filed with the Washington state secretary of state consistent with section 3 of this act; and (d) the amended, restated, or replacement agreement expressly provides that all rights and obligations of the entity formerly existing under chapter 39.34 RCW or other applicable law shall thereafter be the obligations of the new authority created under this chapter. Upon compliance with those requirements, the new authority shall be a successor of the former intergovernmental entity for all purposes, and all rights and obligations of the former entity shall transfer to the new authority. Those obligations shall be treated as having been incurred, entered into, or issued by the new authority, and those obligations shall remain in full force and effect and shall continue to be enforceable in accordance with their terms.

(2) If an interlocal agreement under chapter 39.34 RCW or other applicable law relating to utility services includes among its original participants a city or county that does not itself provide or no longer provides utility services, that city or county may continue as a party to the amended, restated, or replacement agreement and shall be treated as a member for all purposes under this chapter.

NEW SECTION. Sec. 9. POWERS CONFERRED BY CHAPTER ARE SUPPLEMENTAL. The powers and authority conferred by this chapter shall be construed as in addition and supplemental to powers or authority conferred by any other law, and nothing contained in this chapter shall be construed as limiting any other powers or authority of any member or any other entity formed under chapter 39.34 RCW or other applicable law.

Sec. 10. RCW 4.96.010 and 2001 c 119 s 1 are each amended to read as follows:

(1) All local governmental entities, whether acting in a governmental or proprietary capacity, shall be liable for damages arising out of their tortious conduct, or the tortious conduct of their past or present officers, employees, or volunteers while performing or in good faith purporting to perform their official duties, to the same extent as if they were a private person or corporation. Filing a claim for damages within the time allowed by law shall be a condition precedent to the commencement of any action claiming damages. The laws specifying the content for such claims shall be

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liberally construed so that substantial compliance therewith will be deemed satisfactory.

(2) Unless the context clearly requires otherwise, for the purposes of this chapter, "local governmental entity" means a county, city, town, special district, municipal corporation as defined in RCW 39.50.010, quasi-municipal corporation, any joint municipal utility services authority, any entity created by public agencies under RCW 39.34.030, or public hospital.

(3) For the purposes of this chapter, "volunteer" is defined according to RCW 51.12.035.

NEW SECTION. Sec. 11. A new section is added to chapter 82.04 RCW to read as follows:

This chapter does not apply to any payments between, or any transfer of assets to or from, a joint municipal utility services authority created under chapter 39.--- RCW (the new chapter created in section 17 of this act) and any of its members.

NEW SECTION. Sec. 12. A new section is added to chapter 82.08 RCW to read as follows:

The tax levied by RCW 82.08.020 shall not apply to any sales, or transfers made, to or from a joint municipal utility services authority formed under chapter 39.--- RCW (the new chapter created in section 17 of this act) and any of its members.

NEW SECTION. Sec. 13. A new section is added to chapter 82.12 RCW to read as follows:

The tax levied by RCW 82.12.020 shall not apply to any sales, or uses by, or transfers made, to or from a joint municipal utility services authority formed under chapter 39.--- RCW (the new chapter created in section 17 of this act) and any of its members.

NEW SECTION. Sec. 14. A new section is added to chapter 82.16 RCW to read as follows:

This chapter does not apply to any payments between, or any transfer of assets to or from, a joint municipal utility services authority created under chapter 39.--- RCW (the new chapter created in section 17 of this act) and any of its members.

Sec. 15. RCW 86.09.720 and 2003 c 327 s 18 are each amended to read as follows:

In addition to the authority provided in this chapter, flood control districts may participate in and expend revenue on cooperative watershed management arrangements and actions, including ~~((watershed management partnerships under RCW 39.34.210))~~ without limitation those under chapter 39.34 RCW, under chapter 39.--- RCW (the new chapter created in section 17 of this act), and under other intergovernmental agreements authorized by law, for purposes of water supply, water quality, and water resource and habitat protection and management.

Sec. 16. RCW 86.15.035 and 2003 c 327 s 19 are each amended to read as follows:

In addition to the authority provided in this chapter, flood control zone districts may participate in and expend revenue on cooperative watershed management arrangements and actions, including ~~((watershed management partnerships under RCW 39.34.210))~~ without limitation those under chapter 39.34 RCW, under chapter 39.--- RCW (the new chapter created in section 17 of this act), and under other intergovernmental agreements authorized by law, for purposes of water supply, water quality, and water resource and habitat protection and management.

NEW SECTION. Sec. 17. CODIFICATION. Sections 1 through 9 of this act constitute a new chapter in Title 39 RCW."

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Government Operations, Tribal Relations & Elections to Engrossed Substitute House Bill No. 1332.

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

MOTION

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

On page 1, line 2 of the title, after "services;" strike the remainder of the title and insert "amending RCW 4.96.010, 86.09.720, and 86.15.035; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a new section to chapter 82.16 RCW; and adding a new chapter to Title 39 RCW."

MOTION

On motion of Senator Pridemore, the rules were suspended, Engrossed Substitute House Bill No. 1332 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

POINT OF INQUIRY

Senator Hargrove: "Would Senator Pridemore yield to a question? Mr. President and Senator Pridemore, I understand what a municipal waste water storm and flood water is but what are the related utility services that are covered by this bill?"

Senator Pridemore: "I'm afraid I don't understand the question Senator Hargrove."

Senator Hargrove: "'And related utility services,' what are the related utility services that are covered by this bill?"

Senator Pridemore: "Those would be those ones that are very closely related to the other ones that are enumerated in the title."

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1332 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1332 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 40; Nays, 8; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Brown, Chase, Conway, Delvin, Eide, Fain, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Carrell, Erickson, Fraser, Holmquist Newbry, Honeyford and Stevens
Excused: Senator Pflug

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1332 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1596, by House Committee on Local Government (originally sponsored by Representatives Tharinger, Nealey, Haler, Takko, Walsh and Fitzgibbon)

Concerning requirements that cities and towns with ambulance utilities allocate funds toward the total cost necessary to regulate, operate, and maintain the ambulance utility.

The measure was read the second time.

MOTION

On motion of Senator Pridemore, the rules were suspended, Substitute House Bill No. 1596 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1596.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1596 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Carrell, Erickson and King

Excused: Senator Pflug

SUBSTITUTE HOUSE BILL NO. 1596, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1493, by House Committee on Health Care & Wellness (originally sponsored by Representatives Pedersen, Bailey, Kagi, Clibborn, Ryu, Jinkins, Hinkle, Moeller, Van De Wege, Roberts, Stanford and Kenney)

Providing greater transparency to the health professions disciplinary process.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 18.130 RCW to read as follows:

(1) A disciplining authority shall provide a person or entity making a complaint or report under RCW 18.130.080 with a reasonable opportunity to supplement or amend the contents of the

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complaint or report. The license holder must be provided an opportunity to respond to any supplemental or amended complaint or report. The disciplining authority shall promptly respond to inquiries made by the license holder or the person or entity making a complaint or report regarding the status of the complaint or report.

(2)(a) Pursuant to chapter 42.56 RCW, following completion of an investigation or closure of a report or complaint, the disciplining authority shall, upon request, provide the license holder or the person or entity making the complaint or report with a copy of the file relating to the complaint or report, including, but not limited to, any response submitted by the license holder under RCW 18.130.095(1).

(b) The disciplining authority may not disclose documents in the file that:

(i) Contain confidential or privileged information regarding a patient other than the person making the complaint or report; or

(ii) Contain information exempt from public inspection and copying under chapter 42.56 RCW.

(c) The exemptions in (b) of this subsection are inapplicable to the extent that the relevant information can be deleted from the documents in question.

(d) The disciplining authority may impose a reasonable charge for copying the file consistent with the charges allowed for copying public records under RCW 42.56.120.

(3)(a) Prior to any final decision on any disciplinary proceeding before a disciplining authority, the disciplining authority shall provide the person submitting the complaint or report or his or her representative, if any, an opportunity to be heard through an oral or written impact statement about the effect of the person's injury on the person and his or her family and on a recommended sanction.

(b) If the license holder is not present at the disciplinary proceeding, the disciplining authority shall transmit the impact statement to the license holder, who shall certify to the disciplining authority that he or she has received it.

(c) For purposes of this subsection, representatives of the person submitting the complaint or report include his or her family members and such other affected parties as may be designated by the disciplining authority upon request.

(4) A disciplining authority shall inform, in writing, the license holder and person or entity submitting the complaint or report of the final disposition of the complaint or report.

(5) If the disciplining authority closes a complaint or report prior to issuing a statement of charges under RCW 18.130.090 or a statement of allegations under RCW 18.130.172, the person or entity submitting the report may, within thirty days of receiving notice under subsection (4) of this section, request the disciplining authority to reconsider the closure of the complaint or report on the basis of new information relating to the original complaint or report. The disciplining authority shall, within thirty days of receiving the request for reconsideration, notify the license holder of the request and the new information providing the basis therefor. The license holder has thirty days to provide a response. The disciplining authority shall notify the person or entity and the license holder in writing of its final decision on the request for reconsideration, including an explanation of the reasoning behind the decision."

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

MOTION

Senator Becker moved that the following amendment by Senators Becker and Keiser to the committee striking amendment be adopted:

On page 2, line 18 of the amendment, after "(5)" insert "(a)"

On page 2, line 24 of the amendment, after "report." insert "A request for reconsideration made under this subsection may only be brought in relation to the original complaint and may only be brought one time.

(b)"

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

The President declared the question before the Senate to be the adoption of the amendment by Senators Becker and Keiser on page 2, line 18 to the committee striking amendment to Substitute House Bill No. 1493.

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care as amended to Substitute House Bill No. 1493.

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

MOTION

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

On page 1, line 2 of the title, after "process;" strike the remainder of the title and insert "and adding a new section to chapter 18.130 RCW."

MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 1493 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1493 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1493 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Ericksen

Excused: Senator Pflug

SUBSTITUTE HOUSE BILL NO. 1493 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1191, by Representatives Ryu, Kirby, Buys, Fitzgibbon and Bailey

Changing the expiration dates of the mortgage lending fraud prosecution account and its revenue source.

The measure was read the second time.

MOTION

On motion of Senator Fain, the rules were suspended, House Bill No. 1191 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fain spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1191.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1191 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Holmquist Newbry

Excused: Senator Pflug

HOUSE BILL NO. 1191, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1239, by Representatives Orcutt, Hunter, Johnson and Rivers

Allowing the department of revenue to issue a notice of lien to secure payment of delinquent excise taxes in lieu of a warrant.

The measure was read the second time.

MOTION

On motion of Senator White, the rules were suspended, House Bill No. 1239 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator White spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1239.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1239 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King,

Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Kline

Excused: Senator Pflug

HOUSE BILL NO. 1239, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1966, by House Committee on Transportation (originally sponsored by Representatives Pearson, Haler and Bailey)

Clarifying that manure is an agricultural product for the purposes of commercial drivers' licenses. Revised for 1st Substitute: Clarifying that animal manure is an agricultural product for the purposes of commercial drivers' licenses.

The measure was read the second time.

MOTION

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

Senator King spoke in favor of passage of the bill.

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

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1966 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Kline

Excused: Senator Pflug

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

MOTION

On motion of Senator White, Senator Kline was excused.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1858, by House Committee on Early Learning & Human Services (originally sponsored by Representatives Roberts, Parker, Kagi, Dickerson, Goodman, Lytton, Jacks, Probst, Walsh, Carlyle, Kenney and Ormsby)

EIGHTY EIGHTH DAY, APRIL 7, 2011

2011 REGULAR SESSION

Concerning the department of social and health services' authority with regard to semi-secure and secure crisis residential centers and HOPE centers.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 74.13.032 and 2009 c 520 s 53 are each amended to read as follows:

(1) The department shall establish, through performance-based contracts with private or public vendors, regional crisis residential centers with semi-secure facilities. These facilities shall be structured group care facilities licensed under rules adopted by the department and shall have an average of at least four adult staff members and in no event less than three adult staff members to every eight children.

(2) Within available funds appropriated for this purpose, the department shall establish, through performance-based contracts with private or public vendors, regional crisis residential centers with secure facilities. These facilities shall be facilities licensed under rules adopted by the department. These centers may also include semi-secure facilities and to such extent shall be subject to subsection (1) of this section.

(3) The department shall, in addition to the facilities established under subsections (1) and (2) of this section, establish additional crisis residential centers pursuant to performance-based contracts with licensed private group care facilities.

(4) The department is authorized to allow contracting entities to include a combination of secure or semi-secure crisis residential centers as defined in RCW 13.32A.030 and/or HOPE centers pursuant to RCW 74.15.220 in the same building or structure. The department shall permit the colocation of these centers only if the entity operating the facility agrees to designate a particular number of beds to each type of center that is located within the building or structure.

(5) The staff at the facilities established under this section shall be trained so that they may effectively counsel juveniles admitted to the centers, provide treatment, supervision, and structure to the juveniles that recognize the need for support and the varying circumstances that cause children to leave their families, and carry out the responsibilities stated in RCW 13.32A.090. The responsibilities stated in RCW 13.32A.090 may, in any of the centers, be carried out by the department.

~~((5))~~ (6) The secure facilities located within crisis residential centers shall be operated to conform with the definition in RCW 13.32A.030. The facilities shall have an average of no less than one adult staff member to every ten children. The staffing ratio shall continue to ensure the safety of the children.

~~((6))~~ (7) If a secure crisis residential center is located in or adjacent to a secure juvenile detention facility, the center shall be operated in a manner that prevents in-person contact between the residents of the center and the persons held in such facility.

Sec. 2. RCW 74.15.220 and 1999 c 267 s 12 are each amended to read as follows:

The secretary shall establish HOPE centers that provide no more than seventy-five beds across the state and may establish HOPE centers by contract, within funds appropriated by the legislature specifically for this purpose. HOPE centers shall be operated in a manner to reasonably assure that street youth placed

there will not run away. Street youth may leave a HOPE center during the course of the day to attend school or other necessary appointments, but the street youth must be accompanied by an administrator or an administrator's designee. The street youth must provide the administration with specific information regarding his or her destination and expected time of return to the HOPE center. Any street youth who runs away from a HOPE center shall not be readmitted unless specifically authorized by the street youth's placement and liaison specialist, and the placement and liaison specialist shall document with specific factual findings an appropriate basis for readmitting any street youth to a HOPE center. HOPE centers are required to have the following:

(1) A license issued by the secretary;

(2) A professional with a master's degree in counseling, social work, or related field and at least one year of experience working with street youth or a bachelor of arts degree in social work or a related field and five years of experience working with street youth. This professional staff person may be contractual or a part-time employee, but must be available to work with street youth in a HOPE center at a ratio of one to every fifteen youth staying in a HOPE center. This professional shall be known as a placement and liaison specialist. Preference shall be given to those professionals cross-credentialed in mental health and chemical dependency. The placement and liaison specialist shall:

(a) Conduct an assessment of the street youth that includes a determination of the street youth's legal status regarding residential placement;

(b) Facilitate the street youth's return to his or her legally authorized residence at the earliest possible date or initiate processes to arrange legally authorized appropriate placement. Any street youth who may meet the definition of dependent child under RCW 13.34.030 must be referred to the department. The department shall determine whether a dependency petition should be filed under chapter 13.34 RCW. A shelter care hearing must be held within seventy-two hours to authorize out-of-home placement for any youth the department determines is appropriate for out-of-home placement under chapter 13.34 RCW. All of the provisions of chapter 13.32A RCW must be followed for children in need of services or at-risk youth;

(c) Interface with other relevant resources and system representatives to secure long-term residential placement and other needed services for the street youth;

(d) Be assigned immediately to each youth and meet with the youth within eight hours of the youth receiving HOPE center services;

(e) Facilitate a physical examination of any street youth who has not seen a physician within one year prior to residence at a HOPE center and facilitate evaluation by a county-designated mental health professional, a chemical dependency specialist, or both if appropriate; and

(f) Arrange an educational assessment to measure the street youth's competency level in reading, writing, and basic mathematics, and that will measure learning disabilities or special needs;

(3) Staff trained in development needs of street youth as determined by the secretary, including an administrator who is a professional with a master's degree in counseling, social work, or a related field and at least one year of experience working with street youth, or a bachelor of arts degree in social work or a related field and five years of experience working with street youth, who must work with the placement and liaison specialist to provide appropriate services on site;

(4) A data collection system that measures outcomes for the population served, and enables research and evaluation that can be used for future program development and service delivery. Data

collection systems must have confidentiality rules and protocols developed by the secretary;

(5) Notification requirements that meet the notification requirements of chapter 13.32A RCW. The youth's arrival date and time must be logged at intake by HOPE center staff. The staff must immediately notify law enforcement and dependency caseworkers if a street youth runs away from a HOPE center. A child may be transferred to a secure facility as defined in RCW 13.32A.030 whenever the staff reasonably believes that a street youth is likely to leave the HOPE center and not return after full consideration of the factors set forth in RCW 13.32A.130(2)(a) (i) and (ii). The street youth's temporary placement in the HOPE center must be authorized by the court or the secretary if the youth is a dependent of the state under chapter 13.34 RCW or the department is responsible for the youth under chapter 13.32A RCW, or by the youth's parent or legal custodian, until such time as the parent can retrieve the youth who is returning to home;

(6) HOPE centers must identify to the department any street youth it serves who is not returning promptly to home. The department then must contact the missing children's clearinghouse identified in chapter 13.60 RCW and either report the youth's location or report that the youth is the subject of a dependency action and the parent should receive notice from the department;

(7) Services that provide counseling and education to the street youth; and

(8) The department shall ((only)) award contracts for the operation of HOPE center beds and responsible living skills programs ((in departmental regions: (a) With operating secure crisis residential centers; or (b) in which the secretary finds significant progress is made toward opening a secure crisis residential center)) with the goal of facilitating the coordination of services provided for youth by such programs and those services provided by secure and semi-secure crisis residential centers.

Sec. 3. RCW 74.15.255 and 2010 c 289 s 10 are each amended to read as follows:

(1)(a) Within available funds appropriated for this purpose, the department shall contract for a continuum of short-term stabilization services pursuant to RCW 13.32A.030 and 74.15.220. The department shall collaborate with service providers in a manner that allows secure and semi-secure crisis residential centers and HOPE centers to be located in a geographically representative manner and to facilitate the coordination of services provided for youth by such programs. To achieve efficiencies and increase utilization, the department shall allow the colocation of these centers in the same building or structure, except that a youth may not be placed in a secure facility or the secure portion of a collocated facility except as specifically authorized by chapter 13.32A RCW. The department shall allow the colocation of these centers only if the entity operating the facility agrees to designate a particular number of beds to each type of center that is located within the building or structure. The beds so designated must be used only to serve the eligible youth in the program or center for which they are designated.

(b) The department shall adopt rules to allow the licensing of collocated facilities that include any combination of secure or semi-secure crisis residential centers as defined in RCW 13.32A.030, or HOPE centers as defined in RCW 74.15.020. Such rules may provide for flexible payment structures, center specific licensing waivers, or other appropriate methods to increase utilization and provide flexibility, while continuing to meet the statutory goals of the programs. The rules shall provide that a condition of being licensed as a collocated facility is that the contracting entity must designate a particular number of beds in the collocated facility to each type of center that is located within the building or structure. The beds so designated must be used only to serve the eligible youth in the program or center for which they are designated.

(2) The department shall require that to be licensed or continue to be licensed as a secure or semi-secure crisis residential center or HOPE center that the center has on staff, or otherwise has access to, a person who has been trained to work with the needs of sexually exploited children. For purposes of this ((section)) subsection, "sexually exploited child" means that person as defined in RCW 13.32A.030(17)."

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Substitute House Bill No. 1858.

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

MOTION

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

On page 1, line 3 of the title, after "centers;" strike the remainder of the title and insert "and amending RCW 74.13.032, 74.15.220, and 74.15.255."

MOTION

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

Senator Hargrove spoke in favor of passage of the bill.

POINT OF INQUIRY

Senator Pridemore: "Would Senator Hargrove yield to a question?"

President Owen: "The Senator does not yield".

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

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1858 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Kline and Pflug

SUBSTITUTE HOUSE BILL NO. 1858 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

EIGHTY EIGHTH DAY, APRIL 7, 2011

2011 REGULAR SESSION

SECOND SUBSTITUTE HOUSE BILL NO. 1662, by House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Takko, Rodne and Angel)

Addressing appeal and permit procedures under the shoreline management act. Revised for 2nd Substitute: Specifying circumstances under which work outside a shoreland area may commence in advance of the issuance of a shoreline permit.

The measure was read the second time.

MOTION

Senator Swecker moved that the following striking amendment by Senator Swecker and others be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 90.58.140 and 2010 c 210 s 36 are each amended to read as follows:

(1) A development shall not be undertaken on the shorelines of the state unless it is consistent with the policy of this chapter and, after adoption or approval, as appropriate, the applicable guidelines, rules, or master program.

(2) A substantial development shall not be undertaken on shorelines of the state without first obtaining a permit from the government entity having administrative jurisdiction under this chapter.

A permit shall be granted:

(a) From June 1, 1971, until such time as an applicable master program has become effective, only when the development proposed is consistent with: (i) The policy of RCW 90.58.020; and (ii) after their adoption, the guidelines and rules of the department; and (iii) so far as can be ascertained, the master program being developed for the area;

(b) After adoption or approval, as appropriate, by the department of an applicable master program, only when the development proposed is consistent with the applicable master program and this chapter.

(3) The local government shall establish a program, consistent with rules adopted by the department, for the administration and enforcement of the permit system provided in this section. The administration of the system so established shall be performed exclusively by the local government.

(4) Except as otherwise specifically provided in subsection (11) of this section, the local government shall require notification of the public of all applications for permits governed by any permit system established pursuant to subsection (3) of this section by ensuring that notice of the application is given by at least one of the following methods:

(a) Mailing of the notice to the latest recorded real property owners as shown by the records of the county assessor within at least three hundred feet of the boundary of the property upon which the substantial development is proposed;

(b) Posting of the notice in a conspicuous manner on the property upon which the project is to be constructed; or

(c) Any other manner deemed appropriate by local authorities to accomplish the objectives of reasonable notice to adjacent landowners and the public.

The notices shall include a statement that any person desiring to submit written comments concerning an application, or desiring to receive notification of the final decision concerning an application as expeditiously as possible after the issuance of the decision, may submit the comments or requests for decisions to the local government within thirty days of the last date the notice is to be

published pursuant to this subsection. The local government shall forward, in a timely manner following the issuance of a decision, a copy of the decision to each person who submits a request for the decision.

If a hearing is to be held on an application, notices of such a hearing shall include a statement that any person may submit oral or written comments on an application at the hearing.

(5) The system shall include provisions to assure that construction pursuant to a permit will not begin or be authorized until twenty-one days from the date of receipt as provided in subsection (6) of this section; or until all review proceedings are terminated if the proceedings were initiated within twenty-one days from the date of receipt as defined in subsection (6) of this section except as follows:

(a) ((In the case of any permit issued to the state of Washington, department of transportation, for the construction and modification of SR 90 (I-90) on or adjacent to Lake Washington, the construction may begin after thirty days from the date of filing, and the permits are valid until December 31, 1995)) If an appeal is filed with the shorelines hearings board, construction outside of the shoreland area may be commenced in advance of final action on the appeal if the local government makes a written finding that such work does not depend on or require the work proposed within the shoreland area and is not inconsistent with any requirements of the applicable master program. Project construction that occurs under the authority of this section is done at the proponent's risk with the project proponent being responsible for meeting the requirements of the final permit decision after appeal;

(b) Construction may be commenced no sooner than thirty days after the date of the appeal of the board's decision is filed if a permit is granted by the local government and (i) the granting of the permit is appealed to the shorelines hearings board within twenty-one days of the date of receipt, (ii) the hearings board approves the granting of the permit by the local government or approves a portion of the substantial development for which the local government issued the permit, and (iii) an appeal for judicial review of the hearings board decision is filed pursuant to chapter 34.05 RCW. The appellant may request, within ten days of the filing of the appeal with the court, a hearing before the court to determine whether construction pursuant to the permit approved by the hearings board or to a revised permit issued pursuant to the order of the hearings board should not commence. If, at the conclusion of the hearing, the court finds that construction pursuant to such a permit would involve a significant, irreversible damaging of the environment, the court shall prohibit the permittee from commencing the construction pursuant to the approved or revised permit until all review proceedings are final. Construction pursuant to a permit revised at the direction of the hearings board may begin only on that portion of the substantial development for which the local government had originally issued the permit, and construction pursuant to such a revised permit on other portions of the substantial development may not begin until after all review proceedings are terminated. In such a hearing before the court, the burden of proving whether the construction may involve significant irreversible damage to the environment and demonstrating whether such construction would or would not be appropriate is on the appellant;

(c) If the permit is for a substantial development meeting the requirements of subsection (11) of this section, construction pursuant to that permit may not begin or be authorized until twenty-one days from the date of receipt as provided in subsection (6) of this section.

If a permittee begins construction pursuant to ((subsections)) (a), (b), or (c) of this subsection, the construction is begun at the permittee's own risk. If, as a result of judicial review, the courts order the removal of any portion of the construction or the

restoration of any portion of the environment involved or require the alteration of any portion of a substantial development constructed pursuant to a permit, the permittee is barred from recovering damages or costs involved in adhering to such requirements from the local government that granted the permit, the hearings board, or any appellant or intervenor.

(6) Any decision on an application for a permit under the authority of this section, whether it is an approval or a denial, shall, concurrently with the transmittal of the ruling to the applicant, be transmitted to the department and the attorney general. A petition for review of such a decision must be commenced within twenty-one days from the date of receipt of the decision. With regard to a permit other than a permit governed by subsection (10) of this section, "date of receipt" as used herein refers to the date that the applicant receives written notice from the department that the department has received the decision. With regard to a permit for a variance or a conditional use, "date of receipt" means the date a local government or applicant receives the written decision of the department rendered on the permit pursuant to subsection (10) of this section. For the purposes of this subsection, the term "date of receipt" has the same meaning as provided in RCW 43.21B.001.

(7) Applicants for permits under this section have the burden of proving that a proposed substantial development is consistent with the criteria that must be met before a permit is granted. In any review of the granting or denial of an application for a permit as provided in RCW 90.58.180 (1) and (2), the person requesting the review has the burden of proof.

(8) Any permit may, after a hearing with adequate notice to the permittee and the public, be rescinded by the issuing authority upon the finding that a permittee has not complied with conditions of a permit. If the department is of the opinion that noncompliance exists, the department shall provide written notice to the local government and the permittee. If the department is of the opinion that the noncompliance continues to exist thirty days after the date of the notice, and the local government has taken no action to rescind the permit, the department may petition the hearings board for a rescission of the permit upon written notice of the petition to the local government and the permittee if the request by the department is made to the hearings board within fifteen days of the termination of the thirty-day notice to the local government.

(9) The holder of a certification from the governor pursuant to chapter 80.50 RCW shall not be required to obtain a permit under this section.

(10) Any permit for a variance or a conditional use by local government under approved master programs must be submitted to the department for its approval or disapproval.

(11)(a) An application for a substantial development permit for a limited utility extension or for the construction of a bulkhead or other measures to protect a single family residence and its appurtenant structures from shoreline erosion shall be subject to the following procedures:

(i) The public comment period under subsection (4) of this section shall be twenty days. The notice provided under subsection (4) of this section shall state the manner in which the public may obtain a copy of the local government decision on the application no later than two days following its issuance;

(ii) The local government shall issue its decision to grant or deny the permit within twenty-one days of the last day of the comment period specified in (a)(i) of this subsection; and

(iii) If there is an appeal of the decision to grant or deny the permit to the local government legislative authority, the appeal shall be finally determined by the legislative authority within thirty days.

(b) For purposes of this section, a limited utility extension means the extension of a utility service that:

(i) Is categorically exempt under chapter 43.21C RCW for one or more of the following: Natural gas, electricity, telephone, water, or sewer;

(ii) Will serve an existing use in compliance with this chapter; and

(iii) Will not extend more than twenty-five hundred linear feet within the shorelines of the state."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Swecker and others to Second Substitute House Bill No. 1662.

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

MOTION

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

On page 1, line 2 of the title, after "act;" strike the remainder of the title and insert "and amending RCW 90.58.140."

MOTION

On motion of Senator Swecker, the rules were suspended, Second Substitute House Bill No. 1662 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1662 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1662 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Ericksen and Honeyford

Excused: Senators Kline and Pflug

SECOND SUBSTITUTE HOUSE BILL NO. 1662 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 9:13 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Friday, April 8, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

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EIGHTY EIGHTH DAY, APRIL 7, 2011

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Third Reading Final Passage	6	
1575-S		
President Signed	4	

Speaker Signed	2	Other Action	30
1585-S		Second Reading	30
President Signed	4	Third Reading Final Passage	31
Speaker Signed	2	1858-S	
1595-S		Other Action	52
Second Reading	9	Second Reading	51
Third Reading Final Passage	10	Third Reading Final Passage	52
1596-S		1861-S	
Second Reading	48	Other Action	9
Third Reading Final Passage	48	Second Reading	8
1614-S		Third Reading Final Passage	9
Second Reading	23	1922-S	
Third Reading Final Passage	23	Other Action	29
1625		Second Reading	29
President Signed	4	Third Reading Final Passage	29
Speaker Signed	2	1937	
1632-S		President Signed	4
Introduction & 1 st Reading	2	Speaker Signed	2
1662-S2		1939	
Other Action	54	President Signed	4
Second Reading	53	Speaker Signed	2
Third Reading Final Passage	54	1966-S	
1697-S		Second Reading	50
Other Action	15	Third Reading Final Passage	50
Second Reading	14	2019	
Third Reading Final Passage	15	Introduction & 1 st Reading	2
1709		5018-S	
President Signed	4	Messages	1
Speaker Signed	2	President Signed	3
1719-S		5045	
President Signed	4	Messages	1
Speaker Signed	2	President Signed	3
1731-S		5057	
Second Reading	23	Speaker Signed	1
Third Reading Final Passage	23	5058	
1738-S2		Speaker Signed	1
Messages	4	5070-S	
1761-S		Messages	1
Second Reading	27	President Signed	3
Third Reading Final Passage	27	5071-S	
1770		Speaker Signed	1
Other Action	34, 37	5076	
Second Reading	33, 34	Messages	1
Third Reading Final Passage	37	President Signed	3
1774-S		5115-S	
Other Action	18, 22	Speaker Signed	1
Second Reading	16, 18	5116	
Third Reading Final Passage	22	Speaker Signed	1
1783-S		5149	
Other Action	13	Speaker Signed	1
Second Reading	12, 13	5152-S	
Third Reading Final Passage	13	Speaker Signed	1
1803-S2		5170	
President Signed	4	Speaker Signed	1
Speaker Signed	2	5174	
1808-S2		Speaker Signed	1
President Signed	4	5184-S	
Speaker Signed	2	Speaker Signed	1
1811-S		5195-S	
Other Action	12	Speaker Signed	1
Second Reading	11	5213	
Third Reading Final Passage	12	Speaker Signed	1
1826-S		5224	
President Signed	4	Speaker Signed	1
Speaker Signed	2	5241	
1829-S		Messages	1

EIGHTY EIGHTH DAY, APRIL 7, 2011

2011 REGULAR SESSION

President Signed.....	3	5555-S	
5242		Messages.....	1
Speaker Signed.....	1	President Signed.....	3
5295		5574-S	
Speaker Signed.....	1	Speaker Signed.....	1
5300-S		5594-S	
Messages.....	1	Speaker Signed.....	1
President Signed.....	3	5788-S	
5307-S		Messages.....	1
Speaker Signed.....	1	President Signed.....	3
5337-S		5849	
Speaker Signed.....	1	Messages.....	1
5352-S		President Signed.....	3
Messages.....	1	5921	
President Signed.....	3	Introduction & 1 st Reading.....	2
5374-S		5922	
Messages.....	1	Introduction & 1 st Reading.....	2
President Signed.....	3	5923	
5375		Introduction & 1 st Reading.....	2
Speaker Signed.....	1	5924	
5388		Introduction & 1 st Reading.....	2
Speaker Signed.....	1	8651	
5395		Adopted.....	3
Messages.....	1	Introduced.....	3
President Signed.....	3	9069 Mark Matke	
5442-S		Confirmed.....	4
Messages.....	1	PRESIDENT OF THE SENATE	
President Signed.....	3	Intro. Special Guests, former Senator Sid Snyder and wife	
5482		Betti.....	4
Messages.....	1	PRESIDENT OF THE SENATE (SENATOR PRENTICE	
President Signed.....	3	PRESIDING)	
5492		Intro. Special Guests, Michael Reagan and Gold Star Mothers	
Speaker Signed.....	1	3
5495-S		WASHINGTON STATE SENATE	
Speaker Signed.....	1	Personal Privilege, Senator Brown.....	31
5501		Point of Inquiry, Senator Carrell.....	8
Speaker Signed.....	1	Point of Inquiry, Senator Hargrove.....	48
5538-S		Point of Inquiry, Senator Honeyford.....	7
Speaker Signed.....	1	Point of Inquiry, Senator Pridemore.....	52