

**EIGHTY-EIGHTH DAY**

**MORNING SESSION**

Senate Chamber, Olympia, Thursday, April 9, 2009

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Berkey, Brown and Pflug.

The Sergeant at Arms Color Guard consisting of Pages Daniel Belen Garza and Heather Ann Lawrence, presented the Colors. Senator Kline 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**

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

**MESSAGE FROM THE HOUSE**

April 8, 2009

MR. PRESIDENT:

The House has passed the following bills:  
 SENATE BILL NO. 5413,  
 SUBSTITUTE SENATE BILL NO. 5469,  
 SENATE BILL NO. 5511,  
 SENATE BILL NO. 5542,  
 SUBSTITUTE SENATE BILL NO. 5551,  
 SENATE BILL NO. 5562,  
 ENGROSSED SENATE BILL NO. 5581,  
 SUBSTITUTE SENATE BILL NO. 5677,  
 SUBSTITUTE SENATE BILL NO. 5705,  
 SUBSTITUTE SENATE BILL NO. 5839,  
 SENATE BILL NO. 5952,  
 SENATE BILL NO. 5989,  
 SUBSTITUTE SENATE BILL NO. 6019,  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

**MESSAGE FROM THE HOUSE**

April 8, 2009

MR. PRESIDENT:

The House has passed the following bills:  
 SENATE BILL NO. 5492,  
 and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

**SIGNED BY THE PRESIDENT**

The President signed:  
 SENATE BILL NO. 5017,  
 SUBSTITUTE SENATE BILL NO. 5195,  
 SENATE BILL NO. 5233,  
 SUBSTITUTE SENATE BILL NO. 5271,  
 SENATE BILL NO. 5284,  
 SENATE BILL NO. 5305,  
 SENATE BILL NO. 5315,  
 SENATE BILL NO. 5322,

SUBSTITUTE SENATE BILL NO. 5327,  
 SUBSTITUTE SENATE BILL NO. 5343,  
 SUBSTITUTE SENATE BILL NO. 5350,  
 SENATE BILL NO. 5426,  
 SUBSTITUTE SENATE BILL NO. 5434,  
 SENATE BILL NO. 5695,  
 SENATE BILL NO. 5699,  
 SENATE BILL NO. 5767,  
 SUBSTITUTE SENATE BILL NO. 5793,  
 SENATE BILL NO. 5980,  
 SUBSTITUTE SENATE BILL NO. 5987,  
 SUBSTITUTE SENATE BILL NO. 6000,  
 SUBSTITUTE SENATE BILL NO. 6024,  
 SENATE JOINT MEMORIAL NO. 8003,

**MOTION**

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

**MOTION**

Senator Stevens moved adoption of the following resolution:

**SENATE RESOLUTION**

8606

By Senators Stevens, Holmquist, Parlette, Morton, McCaslin, Hewitt, Schoesler, Swecker, Pflug, Zarelli, King, Carrell, Delvin, and Becker

WHEREAS, The state of Washington acknowledges the paramount significance and fundamental right of parents to proactively direct the education of their children; and

WHEREAS, Children educated in the home are given an opportunity to receive sound academic instruction, this instruction is bolstered by the at-home educational process; and

WHEREAS, The state of Washington is committed to excellence in scholarship and exemplary student achievement; and

WHEREAS, Studies affirm that children educated at home excel with distinction on nationally calibrated achievement tests, demonstrate healthy self-awareness and civic virtue, while being fully prepared to thrive in and contribute to society at large; and

WHEREAS, The state of Washington appropriately recognizes, by law, the right to home education as a legitimate and viable alternative to other forms of education; and

WHEREAS, The instruction of children in the home was the preeminent means of education for much of America's early years; and

WHEREAS, The United States has produced many prominent and noteworthy home-schooled students including George and Martha Washington, Benjamin Franklin, Abigail Adams, John Quincy Adams, Thomas Edison, Helen Keller, Susan B. Anthony, Franklin Roosevelt, Patrick Henry, Abraham Lincoln, Booker T. Washington, and Woodrow Wilson; and

WHEREAS, Many parents of home-schooled students accept an additional financial responsibility to provide for their children's education, while also paying taxes that support Washington's public school system; and

WHEREAS, Some parent educators devote innumerable hours to assist children in their pursuit and acquisition of academic excellence, profound patriotism, and civic responsibility in order to become productive citizens; and

WHEREAS, It is appropriate that Washington's home education families be recognized for their sacrificial contribution to the quality of education in this great state;

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NOW, THEREFORE, BE IT RESOLVED, That the Senate of the state of Washington hereby honor, thank, and celebrate the home education families in the state.

Senators Stevens, Hargrove, Franklin, Swecker, McAuliffe, Roach, Shin and Sheldon spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8606.

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

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed home school education students and families who were seated in the gallery.

#### MOTION

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

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1081, by House Committee on Transportation (originally sponsored by Representatives Wallace, Ericksen, Clibborn, Armstrong, Moeller and Jacks)

Authorizing local improvement district financing of railroad crossing protection devices.

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 35.43.040 and 1997 c 452 s 16 are each amended to read as follows:

Whenever the public interest or convenience may require, the legislative authority of any city or town may order the whole or any part of any local improvement including but not restricted to those, or any combination thereof, listed below to be constructed, reconstructed, repaired, or renewed and landscaping including but not restricted to the planting, setting out, cultivating, maintaining, and renewing of shade or ornamental trees and shrubbery thereon; may order any and all work to be done necessary for completion thereof; and may levy and collect special assessments on property specially benefited thereby to pay the whole or any part of the expense thereof, viz:

(1) Alleys, avenues, boulevards, lanes, park drives, parkways, parking facilities, public places, public squares, public streets, their grading, regrading, planking, replanking, paving, repaving, macadamizing, remacadamizing, graveling, regravelling, piling, repiling, capping, recapping, or other improvement; if the management and control of park drives, parkways, and boulevards is vested in a board of park commissioners, the plans and specifications for their improvement must be approved by the board of park commissioners before their adoption;

(2) Auxiliary water systems;

(3) Auditoriums, field houses, gymnasiums, swimming pools, or other recreational, playground, museum, cultural, or arts facilities or structures;

(4) Bridges, culverts, and trestles and approaches thereto;

(5) Bulkheads and retaining walls;

(6) Dikes and embankments;

(7) Drains, sewers, and sewer appurtenances which as to trunk sewers shall include as nearly as possible all the territory which can be drained through the trunk sewer and subsewers connected thereto;

(8) Escalators or moving sidewalks together with the expense of operation and maintenance;

(9) Parks and playgrounds;

(10) Sidewalks, curbing, and crosswalks;

(11) Street lighting systems together with the expense of furnishing electrical energy, maintenance, and operation;

(12) Underground utilities transmission lines;

(13) Water mains, hydrants, and appurtenances which as to trunk water mains shall include as nearly as possible all the territory in the zone or district to which water may be distributed from the trunk water mains through lateral service and distribution mains and services;

(14) Fences, culverts, syphons, or coverings or any other feasible safeguards along, in place of, or over open canals or ditches to protect the public from the hazards thereof;

(15) Roadbeds, trackage, signalization, storage facilities for rolling stock, overhead and underground wiring, and any other stationary equipment reasonably necessary for the operation of an electrified public streetcar line;

(16) Systems of surface, underground, or overhead railways, tramways, buses, or any other means of local transportation except taxis, and including passenger, terminal, station parking, and related facilities and properties, and such other facilities as may be necessary for passenger and vehicular access to and from such terminal, station, parking, and related facilities and properties, together with all lands, rights-of-way, property, equipment, and accessories necessary for such systems and facilities;

(17) Convention center facilities or structures in cities incorporated before January 1, 1982, with a population over sixty thousand located in a county with a population over one million, other than the city of Seattle. Assessments for purposes of convention center facilities or structures may be levied only to the extent necessary to cover a funding shortfall that occurs when funds received from special excise taxes imposed pursuant to chapter 67.28 RCW are insufficient to fund the annual debt service for such facilities or structures, and may not be levied on property exclusively maintained as single-family or multifamily permanent residences whether they are rented, leased, or owner occupied; ~~(and)~~

(18) Programs of aquatic plant control, lake or river restoration, or water quality enhancement. Such programs shall identify all the area of any lake or river which will be improved and shall include the adjacent waterfront property specially benefited by such programs of improvements. Assessments may be levied only on waterfront property including any waterfront property owned by the department of natural resources or any other state agency. Notice of an assessment on a private leasehold in public property shall comply with provisions of chapter 79.44 RCW. Programs under this subsection shall extend for a term of not more than five years; and

(19) Railroad crossing protection devices, including maintenance and repair. Any assessments for maintenance and repair after the initial indebtedness is retired may be levied only with the approval of a majority of the property owners within the local improvement district. Assessments for purposes of railroad crossing protection devices may not be levied on property owned or maintained by a railroad, railroad company, street railroad, or street railroad company, as defined in RCW 81.04.010, or a regional transit authority as defined in RCW 81.112.020."

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

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The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to Second Substitute House Bill No. 1081.

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 2 of the title, after "devices;" strike the remainder of the title and insert "and amending RCW 35.43.040."

MOTION

On motion of Senator Haugen, the rules were suspended, Second Substitute House Bill No. 1081 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.

MOTION

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

MOTION

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

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1081 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1081 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 39; Nays, 7; Absent, 0; Excused, 3.

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

Voting nay: Senators Holmquist, Honeyford, Kline, McCaslin, Morton, Roach and Stevens

Excused: Senators Berkey, Brown and Pflug

SECOND SUBSTITUTE HOUSE BILL NO. 1081 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. 1239, by House Committee on Early Learning & Children's Services (originally sponsored by Representatives Kagi, Walsh, Goodman, Haler, Roberts, Appleton, Moeller and Kenney)

Addressing parenting plans and residential schedules in dependency proceedings.

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 13.04.030 and 2005 c 290 s 1 and 2005 c 238 s 1 are each reenacted and amended to read as follows:

(1) Except as provided in this section, the juvenile courts in this state shall have exclusive original jurisdiction over all proceedings:

(a) Under the interstate compact on placement of children as provided in chapter 26.34 RCW;

(b) Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in RCW 13.34.030 through ~~(13.34.170)~~ 13.34.161;

(c) Relating to the termination of a parent and child relationship as provided in RCW 13.34.180 through 13.34.210;

(d) To approve or disapprove out-of-home placement as provided in RCW 13.32A.170;

(e) Relating to juveniles alleged or found to have committed offenses, traffic or civil infractions, or violations as provided in RCW 13.40.020 through 13.40.230, unless:

(i) The juvenile court transfers jurisdiction of a particular juvenile to adult criminal court pursuant to RCW 13.40.110;

(ii) The statute of limitations applicable to adult prosecution for the offense, traffic or civil infraction, or violation has expired;

(iii) The alleged offense or infraction is a traffic, fish, boating, or game offense, or traffic or civil infraction committed by a juvenile sixteen years of age or older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction, in which instance the appropriate court of limited jurisdiction shall have jurisdiction over the alleged offense or infraction, and no guardian ad litem is required in any such proceeding due to the juvenile's age (~~(-PROVIDED, That)~~). If such an alleged offense or infraction and an alleged offense or infraction subject to juvenile court jurisdiction arise out of the same event or incident, the juvenile court may have jurisdiction of both matters (~~(-PROVIDED FURTHER, That)~~). The jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1) or (e)(i) of this subsection (~~(-PROVIDED FURTHER, That)~~). Courts of limited jurisdiction which confine juveniles for an alleged offense or infraction may place juveniles in juvenile detention facilities under an agreement with the officials responsible for the administration of the juvenile detention facility in RCW 13.04.035 and 13.20.060;

(iv) The alleged offense is a traffic or civil infraction, a violation of compulsory school attendance provisions under chapter 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction has assumed concurrent jurisdiction over those offenses as provided in RCW 13.04.0301; or

(v) The juvenile is sixteen or seventeen years old on the date the alleged offense is committed and the alleged offense is:

(A) A serious violent offense as defined in RCW 9.94A.030;

(B) A violent offense as defined in RCW 9.94A.030 and the juvenile has a criminal history consisting of: (I) One or more prior serious violent offenses; (II) two or more prior violent offenses; or (III) three or more of any combination of the following offenses: Any class A felony, any class B felony,

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vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's thirteenth birthday and prosecuted separately;

(C) Robbery in the first degree, rape of a child in the first degree, or drive-by shooting, committed on or after July 1, 1997;

(D) Burglary in the first degree committed on or after July 1, 1997, and the juvenile has a criminal history consisting of one or more prior felony or misdemeanor offenses; or

(E) Any violent offense as defined in RCW 9.94A.030 committed on or after July 1, 1997, and the juvenile is alleged to have been armed with a firearm.

(I) In such a case the adult criminal court shall have exclusive original jurisdiction, except as provided in (e)(v)(E)(II) of this subsection.

(II) The juvenile court shall have exclusive jurisdiction over the disposition of any remaining charges in any case in which the juvenile is found not guilty in the adult criminal court of the charge or charges for which he or she was transferred, or is convicted in the adult criminal court of a lesser included offense that is not also an offense listed in (e)(v) of this subsection. The juvenile court shall enter an order extending juvenile court jurisdiction if the juvenile has turned eighteen years of age during the adult criminal court proceedings pursuant to RCW 13.40.300. However, once the case is returned to juvenile court, the court may hold a decline hearing pursuant to RCW 13.40.110 to determine whether to retain the case in juvenile court for the purpose of disposition or return the case to adult criminal court for sentencing.

If the juvenile challenges the state's determination of the juvenile's criminal history under (e)(v) of this subsection, the state may establish the offender's criminal history by a preponderance of the evidence. If the criminal history consists of adjudications entered upon a plea of guilty, the state shall not bear a burden of establishing the knowing and voluntariness of the plea;

(f) Under the interstate compact on juveniles as provided in chapter 13.24 RCW;

(g) Relating to termination of a diversion agreement under RCW 13.40.080, including a proceeding in which the diveree has attained eighteen years of age;

(h) Relating to court validation of a voluntary consent to an out-of-home placement under chapter 13.34 RCW, by the parent or Indian custodian of an Indian child, except if the parent or Indian custodian and child are residents of or domiciled within the boundaries of a federally recognized Indian reservation over which the tribe exercises exclusive jurisdiction;

(i) Relating to petitions to compel disclosure of information filed by the department of social and health services pursuant to RCW 74.13.042; and

(j) Relating to judicial determinations and permanency planning hearings involving developmentally disabled children who have been placed in out-of-home care pursuant to a voluntary placement agreement between the child's parent, guardian, or legal custodian and the department of social and health services.

(2) The family court shall have concurrent original jurisdiction with the juvenile court over all proceedings under this section if the superior court judges of a county authorize concurrent jurisdiction as provided in RCW 26.12.010.

(3) The juvenile court shall have concurrent original jurisdiction with the family court over child custody proceedings under chapter 26.10 RCW and parenting plans or residential schedules under chapters 26.09 and 26.26 RCW as provided for in RCW 13.34.155.

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(4) A juvenile subject to adult superior court jurisdiction under subsection (1)(e)(i) through (v) of this section, who is detained pending trial, may be detained in a detention facility as defined in RCW 13.40.020 pending sentencing or a dismissal.

**Sec. 2.** RCW 13.34.062 and 2007 c 413 s 4 and 2007 c 409 s 5 are each reenacted and amended to read as follows:

(1)(a) Whenever a child is taken into custody by child protective services pursuant to a court order issued under RCW 13.34.050 or when child protective services is notified that a child has been taken into custody pursuant to RCW 26.44.050 or 26.44.056, child protective services shall make reasonable efforts to inform the parent, guardian, or legal custodian of the fact that the child has been taken into custody, the reasons why the child was taken into custody, and their legal rights under this title, including the right to a shelter care hearing, as soon as possible. Notice must be provided in an understandable manner and take into consideration the parent's, guardian's, or legal custodian's primary language, level of education, and cultural issues.

(b) In no event shall the notice required by this section be provided to the parent, guardian, or legal custodian more than twenty-four hours after the child has been taken into custody or twenty-four hours after child protective services has been notified that the child has been taken into custody.

(2)(a) The notice of custody and rights may be given by any means reasonably certain of notifying the parents including, but not limited to, written, telephone, or in person oral notification. If the initial notification is provided by a means other than writing, child protective services shall make reasonable efforts to also provide written notification.

(b) The written notice of custody and rights required by this section shall be in substantially the following form:

"NOTICE

Your child has been placed in temporary custody under the supervision of Child Protective Services (or other person or agency). You have important legal rights and you must take steps to protect your interests.

1. A court hearing will be held before a judge within 72 hours of the time your child is taken into custody excluding Saturdays, Sundays, and holidays. You should call the court at (insert appropriate phone number here) for specific information about the date, time, and location of the court hearing.

2. You have the right to have a lawyer represent you at the hearing. Your right to representation continues after the shelter care hearing. You have the right to records the department intends to rely upon. A lawyer can look at the files in your case, talk to child protective services and other agencies, tell you about the law, help you understand your rights, and help you at hearings. If you cannot afford a lawyer, the court will appoint one to represent you. To get a court-appointed lawyer you must contact: (explain local procedure).

3. At the hearing, you have the right to speak on your own behalf, to introduce evidence, to examine witnesses, and to receive a decision based solely on the evidence presented to the judge.

4. If your hearing occurs before a court commissioner, you have the right to have the decision of the court commissioner reviewed by a superior court judge. To obtain that review, you must, within ten days after the entry of the decision of the court commissioner, file with the court a motion for revision of the decision, as provided in RCW 2.24.050.

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You should be present at any shelter care hearing. If you do not come, the judge will not hear what you have to say.

You may call the Child Protective Services' caseworker for more information about your child. The caseworker's name and telephone number are: (insert name and telephone number).

5. You have a right to a case conference to develop a written service agreement following the shelter care hearing. The service agreement may not conflict with the court's order of shelter care. You may request that a multidisciplinary team, family group conference, or prognostic staffing be convened for your child's case. You may participate in these processes with your counsel present.

6. If your child is placed in the custody of the department of social and health services or other supervising agency, immediately following the shelter care hearing, the court will enter an order granting the department or other supervising agency the right to inspect and copy all health, medical, mental health, and education records of the child, directing health care providers to release such information without your further consent, and granting the department or supervising agency or its designee the authority and responsibility, where applicable, to:

- (1) Notify the child's school that the child is in out-of-home placement;
- (2) Enroll the child in school;
- (3) Request the school transfer records;
- (4) Request and authorize evaluation of special needs;
- (5) Attend parent or teacher conferences;
- (6) Excuse absences;
- (7) Grant permission for extracurricular activities;
- (8) Authorize medications which need to be administered during school hours and sign for medical needs that arise during school hours; and
- (9) Complete or update school emergency records.

7. A dependency petition begins a judicial process which, if the court finds your child dependent, could result in substantial restrictions including the entry or modification of a parenting plan or residential schedule, nonparental custody order or decree, guardianship order, or the permanent loss of your parental rights."

Upon receipt of the written notice, the parent, guardian, or legal custodian shall acknowledge such notice by signing a receipt prepared by child protective services. If the parent, guardian, or legal custodian does not sign the receipt, the reason for lack of a signature shall be written on the receipt. The receipt shall be made a part of the court's file in the dependency action.

If after making reasonable efforts to provide notification, child protective services is unable to determine the whereabouts of the parents, guardian, or legal custodian, the notice shall be delivered or sent to the last known address of the parent, guardian, or legal custodian.

(3) If child protective services is not required to give notice under this section, the juvenile court counselor assigned to the matter shall make all reasonable efforts to advise the parents, guardian, or legal custodian of the time and place of any shelter care hearing, request that they be present, and inform them of their basic rights as provided in RCW 13.34.090.

(4) Reasonable efforts to advise and to give notice, as required in this section, shall include, at a minimum, investigation of the whereabouts of the parent, guardian, or legal custodian. If such reasonable efforts are not successful, or the parent, guardian, or legal custodian does not appear at the shelter care hearing, the petitioner shall testify at the hearing or state in a declaration:

(a) The efforts made to investigate the whereabouts of, and to advise, the parent, guardian, or legal custodian; and

(b) Whether actual advice of rights was made, to whom it was made, and how it was made, including the substance of any oral communication or copies of written materials used.

**Sec. 3.** RCW 13.34.155 and 2000 c 135 s 1 are each amended to read as follows:

(1) The court hearing the dependency petition may hear and determine issues related to chapter 26.10 RCW in a dependency proceeding as necessary to facilitate a permanency plan for the child or children as part of the dependency disposition order or a dependency review order or as otherwise necessary to implement a permanency plan of care for a child. The parents, guardians, or legal custodian of the child must agree, subject to court approval, to establish a permanent custody order. This agreed order may have the concurrence of the other parties to the dependency including the supervising agency, the guardian ad litem of the child, and the child if age twelve or older, and must also be in the best interests of the child. If the petitioner for a custody order under chapter 26.10 RCW is not a party to the dependency proceeding, he or she must agree on the record or by the filing of a declaration to the entry of a custody order. Once an order is entered under chapter 26.10 RCW, and the dependency petition dismissed, the department shall not continue to supervise the placement.

(2)(a) The court hearing the dependency petition may establish or modify a parenting plan under chapter 26.09 or 26.26 RCW. As part of the disposition or review proceeding, the juvenile court may enter or modify an existing parenting plan or modify a residential placement or visitation, or both, when doing so will implement a permanent plan of care for the child and result in dismissal of the dependency.

(b) Unless the whereabouts of one of the parents is unknown to either the department or the court, the parents must agree, subject to court approval, to establish the parenting plan or modify an existing parenting plan.

(c) The dependency court must make a written finding that the parenting plan established or modified by the dependency court under this section is in the child's best interests.

(d) When hearing and determining matters agreed to by the child's parents regarding custody, the child's residential schedule, the allocation of parental decision-making authority, and dispute resolution, the dependency court may adhere to the requirements of RCW 13.34.105.

(e) The dependency court may interview the child in chambers to ascertain the child's wishes as to the child's residential schedule in a proceeding for the entry or modification of a parenting plan under this section. The court may permit counsel to be present at the interview. The court shall cause a record of the interview to be made and to become part of the court record of the dependency case and the case under chapter 26.09 or 26.26 RCW.

(f) In the absence of agreement by a parent, guardian, or legal custodian of the child to allow the juvenile court to hear and determine issues related to the establishment or modification of a parenting plan under chapter 26.09 or 26.26 RCW, a party may move the court to transfer such issues to the family law department of the superior court for further resolution. The court may only grant the motion upon entry of a written finding that it is in the best interests of the child.

(g) In any parenting plan agreed to by the parents and entered or modified in juvenile court under this section, all issues pertaining to child support and the division of marital property shall be referred to or retained by the family law department of the superior court.

## ROLL CALL

(3) Any court order determining issues under chapter 26.10 RCW is subject to modification upon the same showing and standards as a court order determining Title 26 RCW issues.

~~((3))~~ (4) Any order entered in the dependency court establishing or modifying a permanent legal custody order or parenting plan, or residential schedule under chapters 26.09, 26.10, and 26.26 RCW shall also be filed in the chapter 26.09, 26.10, and 26.26 RCW action by the moving or prevailing party. If the petitioning or moving party has been found indigent and appointed counsel at public expense in the dependency proceeding, no filing fees shall be imposed by the clerk. Once filed, any order, parenting plan, or residential schedule establishing or modifying permanent legal custody of a child shall survive dismissal of the dependency proceeding."

## MOTION

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

On page 8, line 5, after "26.26 RCW", strike all material through both, on line 8 and insert "as part of a disposition order or at a review hearing."

On page 8, line 14, after "(c)" insert "Whenever the court is asked to establish or modify a parenting plan under this section, the court shall first determine whether the child's interests are represented consistent with the requirements of RCW 13.34.100."

On page 8, starting on line 17, strike all material through "13.34.105." on line 21.

Reorder the remaining subsections consecutively and correct any internal references accordingly.

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove and Stevens on page 8, line 5 to the committee striking amendment to Substitute House Bill No. 1239.

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Substitute House Bill No. 1239.

The motion by Senator Hargrove 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 "proceedings;" strike the remainder of the title and insert "amending RCW 13.34.155; and reenacting and amending RCW 13.04.030 and 13.34.062."

## MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 1239 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. 1239 as amended by the Senate.

The Secretary called the roll on the final passage of Substitute House Bill No. 1239 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Berkey and Brown

SUBSTITUTE HOUSE BILL NO. 1239 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. 1303, by House Committee on Health Care & Wellness (originally sponsored by Representatives Moeller, Green and Roberts)

Collecting child mortality reviews into a database.

The measure was read the second time.

## MOTION

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

On page 3, beginning on line 19, after "teams," strike all material through "funding." on line 20 and insert "The department shall conduct these activities within the limits of available funding."

## WITHDRAWAL OF AMENDMENT

On motion of Senator Keiser, the amendment by Senator Keiser on page 3, line 19 to Substitute House Bill No. 1303 was withdrawn.

## MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 1303 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. 1303.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1303 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

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Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Berkey and Brown

SUBSTITUTE HOUSE BILL NO. 1303, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Becker: "I'd like to celebrate my mother's ninety-first birthday publically please. Today is my mother's birthday and since this is my first year in the Senate and she's just a really proud lady right now. I really wanted to say 'Happy Birthday Mom'. Ninety-one years old. She's now living in Yakima in an assisted living home and has a lot of care and is doing really remarkably well. She can out run me shopping with her walker. I can't keep up with her. I keep losing her and I miss her terribly. We just moved her over there in August. Other wise, we've been together a lot for the last nine years. I've hauled her everywhere and boy does she like to go everywhere and I can hardly wait til session is done and I get to try to keep up with her shopping in Yakima. I just wanted to say, 'Happy Birthday Mom.' Thank you."

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1441, by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Condotta, Armstrong, White and Eddy)

Concerning the contractual relationships between distributors and producers of malt beverages.

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Substitute House Bill No. 1441 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1441.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1441 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Berkey and Brown

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1441, 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. 1512, by House Committee on Transportation (originally sponsored by Representatives Haler, Roach and Klippert)

Authorizing the funding of rail freight service through grants.

The measure was read the second time.

MOTION

On motion of Senator Jarrett, the rules were suspended, Engrossed Substitute House Bill No. 1512 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Jarrett spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1512.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1512 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Berkey and Brown

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1512, 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. 1088, by Representative Hunter

Clarifying prospectively the measure of the taxes imposed on public utility districts as provided in chapter 54.28 RCW.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, House Bill No. 1088 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.

PARLIAMENTARY INQUIRY

Senator Zarelli: "Mr. President, I seek a ruling on whether this bill before us requires a two-thirds vote under I-960. Mr. President, House Bill No. 1088 is a Department of Revenue request legislation which amends the public utility district privilege tax. The privilege tax is applied to public utility

revenues and it applies to the amounts received from the sale of electric energy. Two PUD's recently sued claiming that contrary to DOR assertion that tax did not apply to revenue PUD's collect from separately stated charges and fees. The Superior Court agreed with the PUD's that the tax was not owed on such revenue and DOR has appealed the decision. DOR's bill attempts to amend the law to specifically include revenue from these separated stated charges as taxable. DOR says in the fiscal notes that there is no revenue impact since this comports with how they have always applied the statute but they acknowledged that after the change in law the state would lose 2.2 million dollars a year if the Superior Court interpretation held. From my constituents the fiscal note indicates that this change in law would cause rate payer served by Clark County PUD an additional five hundred forty thousand dollars a year. In short Mr. President, under the present state of the law revenues from separately stated charges and fees are not taxable per the Superior Court ruling. This bill attempts to overturn that court ruling making such charges taxable. I would ask for a ruling whether this requires a two-thirds vote of this legislature. Thank you."

MOTION

On motion of Senator Eide, further consideration of House Bill No. 1088 was deferred and the bill held its place on the second reading calendar.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1010, by Representatives Morris, Chase and Moeller

Modifying the definition of "biofuel" for chapter 19.112 RCW, the motor fuel quality act. Revised for 1st Substitute: Regarding the definition of a biofuel.

The measure was read the second time.

MOTION

On motion of Senator Pridemore, further consideration of Substitute House Bill No. 1010 was deferred and the bill held its place on the second reading calendar.

SECOND READING

HOUSE BILL NO. 1273, by Representatives Condotta and Armstrong

Allowing counties, cities, and towns to conduct raffles under certain terms and conditions.

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, House Bill No. 1273 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of House Bill No. 1273.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1273 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 8; Absent, 0; Excused, 1.

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

Voting nay: Senators Carrell, Fairley, Franklin, Hargrove, Haugen, McCaslin, Morton and Roach

Excused: Senator Berkey

HOUSE BILL NO. 1273, 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 Hatfield, Senator Regala was excused.

MOTION

The Senate resumed consideration of Substitute House Bill No. 1010.

MOTION

On motion of Senator Pridemore the rules were suspended, Substitute House Bill No. 1010 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. 1010.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1010 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

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

Absent: Senator Ranker

Excused: Senators Berkey and Regala

SUBSTITUTE HOUSE BILL NO. 1010, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2078, by House Committee on Health & Human Services Appropriations (originally sponsored by Representatives Roberts, O'Brien, Walsh, Jacks, Appleton, Goodman, Dickerson, Green, Kagi, Chase, Wood, Kenney and Haler)



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Concerning persons with developmental disabilities who are in correctional facilities or jails.

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:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that:

(a) A small number of persons with developmental disabilities commit crimes, are held in jail, are tried for their offenses, and are sentenced to serve time in our correctional system;

(b) Persons with developmental disabilities are often confused with persons with mental illness. These populations are different and must be understood as distinct groups, with different reasonable accommodation needs; and

(c) A developmental disability often stems from a mix of causes and many persons with developmental disabilities have cognitive impairments that require reasonable accommodations to assist them in understanding what is happening to them and what is expected of them when they encounter the criminal justice system.

(2) The legislature intends to improve the ability of corrections institutions to better identify and provide safe, appropriate accommodations for persons with developmental disabilities.

**NEW SECTION. Sec. 2.** (1) Within state and federal funds appropriated or otherwise available for this purpose, a work group is established, to be cochaired by representatives of the developmental disabilities council and the Washington association of sheriffs and police chiefs, to address issues relating to persons with developmental disabilities who are confined in correctional facilities.

(2) In addition to representatives from the developmental disabilities council and the Washington association of sheriffs and police chiefs, the work group shall consult with:

- (a) The department of social and health services;
- (b) The department of corrections;
- (c) The Washington traumatic brain injury strategic partnership advisory council as defined in RCW 74.31.020;
- (d) Disability rights Washington;
- (e) Consumer advocates; and
- (f) Other interested organizations as identified by the developmental disabilities council and the Washington association of sheriffs and police chiefs.

(3) By December 1, 2009, the work group shall develop recommendations and report to the appropriate committees of the legislature relating to:

(a) Expediently reviewing and determining eligibility for developmental disabilities services provided through the department of social and health services prior to a person's release from confinement from jail or confinement in the department of corrections;

(b) The appropriate role of the department of social and health services in providing potential alternatives to confinement for persons with developmental disabilities and consultation and technical assistance to jails and the department of corrections in their efforts to provide reasonable accommodations for persons with developmental disabilities who are confined in their facility;

(c) Increasing the appropriate use of the authority granted the courts under current sentencing reform act provisions, chapter 9.94A RCW, to order alternatives to confinement prior to trial or following conviction in cases with a sentence of twelve months or less;

(d) The establishment of new options under the sentencing reform act to divert persons with developmental disabilities from the criminal justice system while maintaining public safety;

(e) The feasibility of developing and adopting law enforcement training for responding to persons with developmental disabilities that is analogous to the crisis intervention training currently provided to law enforcement officers for responding to alleged criminal behavior by persons with mental illness;

(f) The feasibility of adopting standardized statewide screening and application practices and forms designed to facilitate the application of a confined person who is likely to be eligible for medical assistance services by the division of developmental disabilities;

(g) The need for and feasibility of developing a screening tool and training for corrections staff to be used to identify persons with developmental disabilities who are confined in prison with the department of corrections similar to the tool to be developed for jails under subsection (4) of this section; and

(h) The feasibility of developing a screening tool for traumatic brain injuries, and information on best practices and training regarding appropriate accommodations for persons with traumatic brain injuries.

(4) By July 1, 2010, the work group shall develop:

(a) A simple screening tool that may be used by jails as part of a jail's intake and/or classification process and which will assist in the identification of offenders with the most common types of developmental disabilities;

(b) A model policy for the use of the screening tool;

(c) A cost-effective means to provide concise training to jail staff on the use of the tool; and

(d) Information on best practices and training regarding appropriate accommodations for persons with developmental disabilities during their confinement.

**NEW SECTION. Sec. 3.** The definitions in this section apply throughout sections 1 and 2 of this act unless the context clearly requires otherwise.

(1) "Jail" has the same meaning as provided in RCW 70.48.020; and

(2) "Confined" means incarcerated in a jail.

**NEW SECTION. Sec. 4.** This act expires December 1, 2010."

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

MOTION

On motion of Senator Fairley, Senator Prentice was excused.

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 Engrossed Second Substitute House Bill No. 2078.

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:

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On page 1, line 2 of the title, after "jails;" strike the remainder of the title and insert "creating new sections; and providing an expiration date."

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Second Substitute House Bill No. 2078 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.

MOTION

On motion of Senator Kauffman, Senator Ranker was excused.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2078 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2078 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Berkey and Regala

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2078 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 SECOND SUBSTITUTE HOUSE BILL NO. 1935, by House Committee on Health & Human Services Appropriations (originally sponsored by Representatives Morrell, Walsh, Cody, Orwall, Kenney, Bailey, Miloscia, Green, Kelley and Williams)

Concerning adult family homes.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 70.128.040 and 2007 c 184 s 8 are each amended to read as follows:

(1) The department shall adopt rules and standards with respect to adult family homes and the operators thereof to be licensed under this chapter to carry out the purposes and requirements of this chapter. The rules and standards relating to

applicants and operators shall address the differences between individual providers and providers that are partnerships, corporations, associations, or companies. The rules and standards shall also recognize and be appropriate to the different needs and capacities of the various populations served by adult family homes such as but not limited to persons who are developmentally disabled or elderly. In developing rules and standards the department shall recognize the residential family-like nature of adult family homes and not develop rules and standards which by their complexity serve as an overly restrictive barrier to the development of the adult family homes in the state. Procedures and forms established by the department shall be developed so they are easy to understand and comply with. Paper work requirements shall be minimal. Easy to understand materials shall be developed for applicants and providers explaining licensure requirements and procedures.

(2)(a) In developing the rules and standards, the department shall consult with all divisions and administrations within the department serving the various populations living in adult family homes, including the division of developmental disabilities and the aging and adult services administration. Involvement by the divisions and administration shall be for the purposes of assisting the department to develop rules and standards appropriate to the different needs and capacities of the various populations served by adult family homes. During the initial stages of development of proposed rules, the department shall provide notice of development of the rules to organizations representing adult family homes and their residents, and other groups that the department finds appropriate. The notice shall state the subject of the rules under consideration and solicit written recommendations regarding their form and content.

(b) In addition, the department shall engage in negotiated rule making pursuant to RCW 34.05.310(2)(a) with the exclusive representative of the adult family home licensees selected in accordance with RCW 70.128.043 and with other affected interests before adopting requirements that affect adult family home licensees.

(3) Except where provided otherwise, chapter 34.05 RCW shall govern all department rule-making and adjudicative activities under this chapter.

(4) The department shall establish a specialty license to include geriatric specialty certification for providers who have successfully completed the University of Washington school of nursing certified geriatric certification program and testing.

Sec. 2. RCW 70.128.005 and 2001 c 319 s 1 are each amended to read as follows:

(1) The legislature finds that:

(a) Adult family homes are an important part of the state's long-term care system. Adult family homes provide an alternative to institutional care and promote a high degree of independent living for residents.

(b) Persons with functional limitations have broadly varying service needs. Adult family homes that can meet those needs are an essential component of a long-term system. ((The legislature further finds that)) Different populations living in adult family homes, such as ((the developmentally disabled)) persons with developmental disabilities and ((the)) elderly persons, often have significantly different needs and capacities from one another.

(c) There is a need to update certain restrictive covenants to take into consideration the legislative findings cited in (a) and (b) of this subsection; the need to prevent or reduce institutionalization; and the legislative and judicial mandates to provide care and services in the least restrictive setting appropriate to the needs of the individual. Restrictive covenants

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which directly or indirectly restrict or prohibit the use of property for adult family homes (i) are contrary to the public interest served by establishing adult family homes and (ii) discriminate against individuals with disabilities in violation of RCW 49.60.224.

(2) It is the legislature's intent that department rules and policies relating to the licensing and operation of adult family homes recognize and accommodate the different needs and capacities of the various populations served by the homes. Furthermore, the development and operation of adult family homes that can provide quality personal care and special care services should be encouraged.

(3) The legislature finds that many residents of community-based long-term care facilities are vulnerable and their health and well-being are dependent on their caregivers. The quality, skills, and knowledge of their caregivers are the key to good care. The legislature finds that the need for well-trained caregivers is growing as the state's population ages and residents' needs increase. The legislature intends that current training standards be enhanced.

(4) The legislature finds that the state of Washington has a compelling interest in protecting and promoting the health, welfare, and safety of vulnerable adults residing in adult family homes. The health, safety, and well-being of vulnerable adults must be the paramount concern in determining whether to issue a license to an applicant, whether to suspend or revoke a license, or whether to take other licensing actions.

**NEW SECTION. Sec. 3.** A new section is added to chapter 70.128 RCW to read as follows:

(1) To effectuate the public policies of this chapter, restrictive covenants may not limit, directly or indirectly:

(a) Persons with disabilities from living in an adult family home licensed under this chapter; or

(b) Persons and legal entities from operating adult family homes licensed under this chapter, whether for-profit or nonprofit, to provide services covered under this chapter. However, this subsection does not prohibit application of reasonable nondiscriminatory regulation, including but not limited to landscaping standards or regulation of sign location or size, that applies to all residential property subject to the restrictive covenant.

(2) This section applies retroactively to all restrictive covenants in effect on the effective date of this section. Any provision in a restrictive covenant in effect on or after the effective date of this section that is inconsistent with subsection (1) of this section is unenforceable to the extent of the conflict.

**NEW SECTION. Sec. 4.** A new section is added to chapter 64.38 RCW to read as follows:

(1) To effectuate the public policy of chapter 70.128 RCW, the governing documents may not limit, directly or indirectly:

(a) Persons with disabilities from living in an adult family home licensed under chapter 70.128 RCW; or

(b) Persons and legal entities from operating adult family homes licensed under chapter 70.128 RCW, whether for-profit or nonprofit, to provide services covered under chapter 70.128 RCW. However, this subsection does not prohibit application of reasonable nondiscriminatory regulation, including but not limited to landscaping standards or regulation of sign location or size, that applies to all residential property subject to the governing documents.

(2) This section applies retroactively to any governing documents in effect on the effective date of this section. Any provision in a governing document in effect on or after the effective date of this section that is inconsistent with subsection (1) of this section is unenforceable to the extent of the conflict.

**Sec. 5.** RCW 70.128.060 and 2004 c 140 s 3 are each amended to read as follows:

(1) An application for license shall be made to the department upon forms provided by it and shall contain such information as the department reasonably requires.

(2) Subject to the provisions of this section, the department shall issue a license to an adult family home if the department finds that the applicant and the home are in compliance with this chapter and the rules adopted under this chapter, unless (a) the applicant or a person affiliated with the applicant has prior violations of this chapter relating to the adult family home subject to the application or any other adult family home, or of any other law regulating residential care facilities within the past five years that resulted in revocation, suspension, or nonrenewal of a license or contract with the department; or (b) the applicant or a person affiliated with the applicant has a history of significant noncompliance with federal, state, or local laws, rules, or regulations relating to the provision of care or services to vulnerable adults or to children. A person is considered affiliated with an applicant if the person is listed on the license application as a partner, officer, director, resident manager, or majority owner of the applying entity, or is the spouse of the applicant.

(3) The license fee shall be submitted with the application.

(4) The department shall serve upon the applicant a copy of the decision granting or denying an application for a license. An applicant shall have the right to contest denial of his or her application for a license as provided in chapter 34.05 RCW by requesting a hearing in writing within twenty-eight days after receipt of the notice of denial.

(5) The department shall not issue a license to a provider if the department finds that the provider or spouse of the provider or any partner, officer, director, managerial employee, or majority owner has a history of significant noncompliance with federal or state regulations, rules, or laws in providing care or services to vulnerable adults or to children.

(6) The department shall license an adult family home for the maximum level of care that the adult family home may provide. The department shall define, in rule, license levels based upon the education, training, and caregiving experience of the licensed provider or staff.

(7) The department shall establish, by rule, standards used to license nonresident providers and multiple facility operators.

(8) The department shall establish, by rule, for multiple facility operators educational standards substantially equivalent to recognized national certification standards for residential care administrators.

(9) The license fee shall be set ~~((at fifty dollars per year))~~ in an amount specified in the biennial operating budget for each home. A ((fifty dollar)) processing fee in an amount specified in the biennial operating budget shall also be charged each home when the home is initially licensed.

(10) A provider who receives notification of the department's initiation of a denial, suspension, nonrenewal, or revocation of an adult family home license may, in lieu of appealing the department's action, surrender or relinquish the license. The department shall not issue a new license to or contract with the provider, for the purposes of providing care to vulnerable adults or children, for a period of twenty years following the surrendering or relinquishment of the former license. The licensing record shall indicate that the provider relinquished or surrendered the license, without admitting the violations, after receiving notice of the department's initiation of a denial, suspension, nonrenewal, or revocation of a license.

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## ROLL CALL

(11) The department shall establish, by rule, the circumstances requiring a change in the licensed provider, which include, but are not limited to, a change in ownership or control of the adult family home or provider, a change in the provider's form of legal organization, such as from sole proprietorship to partnership or corporation, and a dissolution or merger of the licensed entity with another legal organization. The new provider is subject to the provisions of this chapter, the rules adopted under this chapter, and other applicable law. In order to ensure that the safety of residents is not compromised by a change in provider, the new provider is responsible for correction of all violations that may exist at the time of the new license.

**NEW SECTION. Sec. 6.** 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 Marr spoke in favor of the adoption of the striking amendment.

## MOTION

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

On page 4, beginning on line 26, strike all of section 5.

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

Senator Pflug 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 Pflug and Keiser on page 4, line 26 to the striking amendment to Engrossed Second Substitute House Bill No. 1935.

The motion by Senator Pflug 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 Marr, Keiser and Pflug as amended to Engrossed Second Substitute House Bill No. 1935.

The motion by Senator Marr 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 "homes;" strike the remainder of the title and insert "amending RCW 70.128.040, 70.128.005, and 70.128.060; adding a new section to chapter 70.128 RCW; and adding a new section to chapter 64.38 RCW."

## MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Second Substitute House Bill No. 1935 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1935 as amended by the Senate.

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1935 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 39; Nays, 8; Absent, 0; Excused, 2.

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

Voting nay: Senators Benton, Carrell, Holmquist, Honeyford, McCaslin, Morton, Parlette and Stevens

Excused: Senators Berkey and Regala

**ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1935** 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 11:33 a.m., on motion of Senator Eide, the Senate was recessed until 1:30 p.m.

AFTERNOON SESSION

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

## SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Pridemore moved that Gubernatorial Appointment No. 9059, Allie M. Joiner, as a member of the Board of Trustees, State School for the Deaf, be confirmed.

Senators Pridemore and Jacobsen spoke in favor of passage of the motion.

## MOTION

On motion of Senator Delvin, Senator Stevens was excused.

## MOTION

On motion of Senator Brandland, Senators Carrell, Pflug and Swecker were excused.

## APPOINTMENT OF ALLIE M. JOINER

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9059, Allie M. Joiner as a member of the Board of Trustees, State School for the Deaf.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9059, Allie M. Joiner as a member of the Board of Trustees, State School for the Deaf and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Becker, Benton, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield,

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Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom and Zarelli

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 7. A new section is added to chapter 46.61 RCW to read as follows:

(1) Tribal authorities, within their reservation boundaries, may determine based on an engineering and traffic investigation that the maximum speed permitted under RCW 46.61.400 or 46.61.405 is greater or less than is reasonable or safe under the conditions found to exist upon a nonlimited access state highway or part of a nonlimited access state highway. Then, the tribal authority may determine and declare a reasonable and safe maximum limit thereon which:

- (a) Decreases the limit at intersections;
- (b) Increases the limit, not exceeding sixty miles per hour;
- or
- (c) Decreases the limit, not lower than twenty miles per hour.

(2) Any alteration by tribal authorities of maximum limits on a nonlimited access state highway is not effective until the alteration has been approved by the secretary of transportation and appropriate signs giving notice of the alteration have been posted. In the case of an alteration by tribal authorities of maximum limits on a nonlimited access state highway that is also part of a city or town street or county road within tribal reservation boundaries, the alteration is not effective until that alteration has also been approved by the applicable local authority."

Senator Jarrett 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. 1448.

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

MOTION

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

On page 1, line 2 of the title, after "boundaries;" strike the remainder of the title and insert "and adding a new section to chapter 46.61 RCW."

MOTION

On motion of Senator Jarrett, the rules were suspended, House Bill No. 1448 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Jarrett spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1448 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1448 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 40; Nays, 5; Absent, 1; Excused, 3.

Absent: Senator Hargrove

Excused: Senators Berkey, Pflug and Swecker  
Gubernatorial Appointment No. 9059, Allie M. Joiner, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, State School for the Deaf.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Pridemore moved that Gubernatorial Appointment No. 9061, Juanita J. Kamphus, as a member of the Board of Trustees, State School for the Deaf, be confirmed.

Senator Pridemore spoke in favor of the motion.

MOTION

On motion of Senator McDermott, Senator Hargrove was excused.

APPOINTMENT OF JUANITA J. KAMPHUS

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9061, Juanita J. Kamphus as a member of the Board of Trustees, State School for the Deaf.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9061, Juanita J. Kamphus as a member of the Board of Trustees, State School for the Deaf and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Berkey, Hargrove, Pflug and Swecker  
Gubernatorial Appointment No. 9061, Juanita J. Kamphus, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, State School for the Deaf.

SECOND READING

HOUSE BILL NO. 1448, by Representatives Hurst, Roach, Simpson, McCoy, Sullivan, Hunt, Goodman, Appleton, Ormsby and Nelson

Granting tribal authorities limited control over speed limits on nonlimited access state highways within tribal reservation boundaries.

The measure was read the second time.

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

Voting nay: Senators Becker, Holmquist, Honeyford, Sheldon and Stevens

Absent: Senator Prentice

Excused: Senators Berkey, Hargrove and Pflug

HOUSE BILL NO. 1448 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

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

## SECOND READING

HOUSE BILL NO. 1042, by Representatives O'Brien, Warnick, Goodman, Rodne, Kelley and Williams

Concerning notices of dishonor.

The measure was read the second time.

## MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 1042 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1042.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1042 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Berkey, Hargrove and Regala

HOUSE BILL NO. 1042, 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. 1415, by House Committee on Commerce & Labor (originally sponsored by Representatives Hasegawa, Haler, Hunt, Armstrong, Eddy, Newhouse, Conway, Wood, Williams, Johnson, Chase, Upthegrove, Condotta, Moeller and Ormsby)

Providing for the sales of wine at the legislative gift center.

The measure was read the second time.

## MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 1415 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.

## MOTION

On motion of Senator Delvin, Senator Morton was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1415.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1415 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 2; Absent, 1; Excused, 2.

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

Voting nay: Senators McCaslin and Roach

Absent: Senator Jacobsen

Excused: Senators Berkey and Morton

SUBSTITUTE HOUSE BILL NO. 1415, 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. 1552, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Kretz, Blake, Short, Nelson, Smith, Upthegrove and McCune)

Regarding public access at open public meetings.

The measure was read the second time.

## MOTION

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

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 34.05.325 and 2005 c 274 s 262 are each amended to read as follows:

(1) The agency shall make a good faith effort to insure that the information on the proposed rule published pursuant to RCW 34.05.320 accurately reflects the rule to be presented and considered at the oral hearing on the rule. Written comment about a proposed rule, including supporting data, shall be accepted by an agency if received no later than the time and date

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specified in the notice, or such later time and date established at the rule-making hearing.

(2) The agency shall provide an opportunity for oral comment to be received by the agency in a rule-making hearing.

(3) If the agency possesses equipment capable of receiving telefacsimile transmissions or recorded telephonic communications, the agency may provide in its notice of hearing filed under RCW 34.05.320 that interested parties may comment on proposed rules by these means. If the agency chooses to receive comments by these means, the notice of hearing shall provide instructions for making such comments, including, but not limited to, appropriate telephone numbers to be used; the date and time by which comments must be received; required methods to verify the receipt and authenticity of the comments; and any limitations on the number of pages for telefacsimile transmission comments and on the minutes of tape recorded comments. The agency shall accept comments received by these means for inclusion in the official record if the comments are made in accordance with the agency's instructions.

(4) The agency head, a member of the agency head, or a presiding officer designated by the agency head shall preside at the rule-making hearing. Rule-making hearings shall be open to the public. The agency shall cause a record to be made of the hearing by stenographic, mechanical, or electronic means. Regardless of whether the agency head has delegated rule-making authority, the presiding official shall prepare a memorandum for consideration by the agency head, summarizing the contents of the presentations made at the rule-making hearing, unless the agency head presided or was present at substantially all of the hearings. The summarizing memorandum is a public document and shall be made available to any person in accordance with chapter 42.56 RCW.

(5) Rule-making hearings are legislative in character and shall be reasonably conducted by the presiding official to afford interested persons the opportunity to present comment individually. All comments by all persons shall be made in the presence and hearing of other attendees. Written or electronic submissions may be accepted and included in the record. Rule-making hearings may be continued to a later time and place established on the record without publication of further notice under RCW 34.05.320.

(6)(a) Before it files an adopted rule with the code reviser, an agency shall prepare a concise explanatory statement of the rule:

- (i) Identifying the agency's reasons for adopting the rule;
- (ii) Describing differences between the text of the proposed rule as published in the register and the text of the rule as adopted, other than editing changes, stating the reasons for differences; and
- (iii) Summarizing all comments received regarding the proposed rule, and responding to the comments by category or subject matter, indicating how the final rule reflects agency consideration of the comments, or why it fails to do so.

(b) The agency shall provide the concise explanatory statement to any person upon request or from whom the agency received comment."

Senator Fairley 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 & Elections to Substitute House Bill No. 1552.

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

MOTION

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

On page 1, line 1 of the title, after "meetings;" strike the remainder of the title and insert "and amending RCW 34.05.325."

MOTION

On motion of Senator Fairley, the rules were suspended, Substitute House Bill No. 1552 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fairley spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1552 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1552 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 2; Excused, 2.

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

Absent: Senators Brown and Rockefeller

Excused: Senators Berkey and Morton

SUBSTITUTE HOUSE BILL NO. 1552 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1769, by House Committee on Early Learning & Children's Services (originally sponsored by Representatives Orwall, White, Dammeier, Clibborn, Nelson, Lias, Carlyle, Eddy, Uptegrove, Green, Chase, Seaquist, Miloscia, Kagi, Roberts, Kenney and Morrell)

Concerning housing assistance in dependency matters.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 13.34.030 and 2003 c 227 s 2 are each amended to read as follows:

For purposes of this chapter:

(1) "Abandoned" means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

(2) "Child" and "juvenile" means any individual under the age of eighteen years.

(3) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until: (a) The child returns home; (b) an adoption decree, a permanent custody order, or guardianship order is entered; or (c) the dependency is dismissed, whichever occurs first.

(4) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to this chapter for the limited purpose of assisting the court in the supervision of the dependency.

(5) "Dependent child" means any child who:

(a) Has been abandoned;

(b) Is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child; or

(c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development.

(6) "Developmental disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to the individual.

(7) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding other than a proceeding under this chapter; and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" shall not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(8) "Guardian ad litem" means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

(9) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(10) "Housing assistance" means appropriate referrals by the department or other supervising agencies to federal, state, local,

or private agencies or organizations, assistance with forms, applications, or financial subsidies or other monetary assistance for housing. For purposes of this chapter, "housing assistance" is not a remedial service or time-limited family reunification service as described in RCW 13.34.025(2).

(11) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, general assistance, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

~~((+1))~~ (12) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

~~((+2))~~ (13) "Preventive services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services, including housing ~~((services))~~ assistance, capable of preventing the need for out-of-home placement while protecting the child. ~~((Housing services may include, but are not limited to, referrals to federal, state, local, or private agencies or organizations, assistance with forms and applications, or financial subsidies for housing.~~

~~((+3))~~ (14) "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to RCW 74.15.030.

~~((+4))~~ (15) "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half-sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in 25 U.S.C. Sec. 1903(4).

~~((+5))~~ (16) "Social study" means a written evaluation of matters relevant to the disposition of the case and shall contain the following information:

(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(b) A description of the specific services and activities, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such services and activities are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered. The description shall identify the services chosen and approved by the parent;

(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs that have been considered and rejected; the preventive services, including housing assistance, that 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 the parents' attitude toward placement of the child;

(d) A statement of the likely harms the child will suffer as a result of removal;



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(e) A description of the steps that will be taken to minimize the harm to the child that may result if separation occurs including an assessment of the child's relationship and emotional bond with any siblings, and the agency's plan to provide ongoing contact between the child and the child's siblings if appropriate; and

(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

**Sec. 2.** RCW 13.34.065 and 2008 c 267 s 2 are each amended to read as follows:

(1)(a) When a child is taken into custody, the court shall hold a shelter care hearing within seventy-two hours, excluding Saturdays, Sundays, and holidays. The primary purpose of the shelter care hearing is to determine whether the child can be immediately and safely returned home while the adjudication of the dependency is pending.

(b) Any parent, guardian, or legal custodian who for good cause is unable to attend the shelter care hearing may request that a subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. Upon the request of the parent, the court shall schedule the hearing within seventy-two hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means.

(2)(a) The department of social and health services shall submit a recommendation to the court as to the further need for shelter care in all cases in which it is the petitioner. In all other cases, the recommendation shall be submitted by the juvenile court probation counselor.

(b) All parties have the right to present testimony to the court regarding the need or lack of need for shelter care.

(c) Hearsay evidence before the court regarding the need or lack of need for shelter care must be supported by sworn testimony, affidavit, or declaration of the person offering such evidence.

(3)(a) At the commencement of the hearing, the court shall notify the parent, guardian, or custodian of the following:

(i) The parent, guardian, or custodian has the right to a shelter care hearing;

(ii) The nature of the shelter care hearing, the rights of the parents, and the proceedings that will follow; and

(iii) If the parent, guardian, or custodian is not represented by counsel, the right to be represented. If the parent, guardian, or custodian is indigent, the court shall appoint counsel as provided in RCW 13.34.090; and

(b) If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, whether such waiver is knowing and voluntary. A parent may not waive his or her right to the shelter care hearing unless he or she appears in court and the court determines that the waiver is knowing and voluntary. Regardless of whether the court accepts the parental waiver of the shelter care hearing, the court must provide notice to the parents of their rights required under (a) of this subsection and make the finding required under subsection (4) of this section.

(4) At the shelter care hearing the court shall examine the need for shelter care and inquire into the status of the case. The paramount consideration for the court shall be the health, welfare, and safety of the child. At a minimum, the court shall inquire into the following:

(a) Whether the notice required under RCW 13.34.062 was given to all known parents, guardians, or legal custodians of the child. The court shall make an express finding as to whether the notice required under RCW 13.34.062 was given to the parent,

guardian, or legal custodian. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order the supervising agency or the department of social and health services to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090;

(b) Whether the child can be safely returned home while the adjudication of the dependency is pending;

(c) What efforts have been made to place the child with a relative;

(d) What services were provided to the family to prevent or eliminate the need for removal of the child from the child's home. If the dependency petition or other information before the court alleges that homelessness or the lack of suitable housing was a significant factor contributing to the removal of the child, the court shall inquire as to whether housing assistance was provided to the family to prevent or eliminate the need for removal of the child or children;

(e) Is the placement proposed by the agency the least disruptive and most family-like setting that meets the needs of the child;

(f) Whether it is in the best interest of the child to remain enrolled in the school, developmental program, or child care the child was in prior to placement and what efforts have been made to maintain the child in the school, program, or child care if it would be in the best interest of the child to remain in the same school, program, or child care;

(g) Appointment of a guardian ad litem or attorney;

(h) Whether the child is or may be an Indian child as defined in 25 U.S.C. Sec. 1903, whether the provisions of the Indian child welfare act apply, and whether there is compliance with the Indian child welfare act, including notice to the child's tribe;

(i) Whether, as provided in RCW 26.44.063, restraining orders, or orders expelling an allegedly abusive household member from the home of a nonabusive parent, guardian, or legal custodian, will allow the child to safely remain in the home;

(j) Whether any orders for examinations, evaluations, or immediate services are needed. The court may not order a parent to undergo examinations, evaluation, or services at the shelter care hearing unless the parent agrees to the examination, evaluation, or service;

(k) The terms and conditions for parental, sibling, and family visitation.

(5)(a) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

(i) After consideration of the specific services that have been provided, 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; and

(ii)(A) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or

(B) The release of such child would present a serious threat of substantial harm to such child, notwithstanding an order entered pursuant to RCW 26.44.063; or

(C) The parent, guardian, or custodian to whom the child could be released has been charged with violating RCW 9A.40.060 or 9A.40.070.

(b) If the court does not release the child to his or her parent, guardian, or legal custodian, the court shall order placement with a relative, unless there is reasonable cause to believe the

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health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered. The relative must be willing and available to:

(i) Care for the child and be able to meet any special needs of the child;

(ii) Facilitate the child's visitation with siblings, if such visitation is part of the supervising agency's plan or is ordered by the court; and

(iii) Cooperate with the department in providing necessary background checks and home studies.

(c) If the child was not initially placed with a relative, and the court does not release the child to his or her parent, guardian, or legal custodian, the supervising agency shall make reasonable efforts to locate a relative pursuant to RCW 13.34.060(1).

(d) If a relative is not available, the court shall order continued shelter care or order placement with another suitable person, and the court shall set forth its reasons for the order. If the court orders placement of the child with a person not related to the child and not licensed to provide foster care, the placement is subject to all terms and conditions of this section that apply to relative placements.

(e) Any placement with a relative, or other person approved by the court pursuant to this section, shall be contingent upon cooperation 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 is grounds for removal of the child from the home of the relative or other person, subject to review by the court.

(f) Uncertainty by a parent, guardian, legal custodian, relative, or other suitable person that the alleged abuser has in fact abused the child shall not, alone, be the basis upon which a child is removed from the care of a parent, guardian, or legal custodian under (a) of this subsection, nor shall it be a basis, alone, to preclude placement with a relative under (b) of this subsection or with another suitable person under (d) of this subsection.

(6)(a) A shelter care order issued pursuant to this section shall include the requirement for a case conference as provided in RCW 13.34.067. However, if the parent is not present at the shelter care hearing, or does not agree to the case conference, the court shall not include the requirement for the case conference in the shelter care order.

(b) If the court orders a case conference, the shelter care order shall include notice to all parties and establish the date, time, and location of the case conference which shall be no later than thirty days before the fact-finding hearing.

(c) The court may order another conference, case staffing, or hearing as an alternative to the case conference required under RCW 13.34.067 so long as the conference, case staffing, or hearing ordered by the court meets all requirements under RCW 13.34.067, including the requirement of a written agreement specifying the services to be provided to the parent.

(7)(a) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be placed in shelter care for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.

(b)(i) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter

care for failure of the parties to conform to the conditions originally imposed.

(ii) The court shall consider whether nonconformance with any conditions resulted from circumstances beyond the control of the parent, guardian, or legal custodian and give weight to that fact before ordering return of the child to shelter care.

(8)(a) If a child is returned home from shelter care a second time in the case, or if the supervisor of the caseworker deems it necessary, the multidisciplinary team may be reconvened.

(b) If a child is returned home from shelter care a second time in the case a law enforcement officer must be present and file a report to the department.

**Sec. 3.** RCW 13.34.130 and 2007 c 413 s 6 and 2007 c 412 s 2 are each reenacted and 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 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 (those) 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) Order the child to be removed from his or her home and into the custody, control, and care of a relative or the department or a licensed child placing agency for supervision of the child's placement. The department or agency supervising the child's placement has the authority to place the child, subject to review and approval by the court (i) with a relative as defined in RCW 74.15.020(2)(a), (ii) in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW, or (iii) 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. 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. 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) 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, such child shall be placed with a person who is: (A) Related to the child as defined in RCW 74.15.020(2)(a) with whom the child has a relationship and is comfortable; and (B) willing and available to care for the child.

(2) Placement of the child with a relative under this subsection 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,

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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.

(3) 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.

(4) 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.

(5) 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.

(6) 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, the child shall remain in foster care and the court shall direct the 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 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, pursuant to this section, shall be contingent upon cooperation by the relative 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 home, subject to review by the court.

**Sec. 4.** RCW 13.34.138 and 2007 c 413 s 8 and 2007 c 410 s 1 are each reenacted and amended to read as follows:

(1) Except for children whose cases are reviewed by a citizen review board under chapter 13.70 RCW, the status of all children found to be dependent shall be reviewed by the court at least every six months from the beginning date of the placement episode or the date dependency is established, whichever is first. The purpose of the hearing shall be to review the progress of the parties and determine whether court supervision should continue.

(a) The initial review hearing shall be an in-court review and shall be set six months from the beginning date of the placement episode or no more than ninety days from the entry of the disposition order, whichever comes first. The requirements for the initial review hearing, including the in-court review requirement, shall be accomplished within existing resources.

(b) The initial review hearing may be a permanency planning hearing when necessary to meet the time frames set forth in RCW 13.34.145 (1)(a) or 13.34.134.

(2)(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) Prior to the child returning home, the department must complete the following:

(i) Identify all adults residing in the home and conduct background checks on those persons;

(ii) Identify any persons who may act as a caregiver for the child in addition to the parent with whom the child is being placed and determine whether such persons are in need of any services in order to ensure the safety of the child, regardless of whether such persons are a party to the dependency. The department or supervising agency may recommend to the court and the court may order that placement of the child in the parent's home be contingent on or delayed based on the need for such persons to engage in or complete services to ensure the safety of the child prior to placement. If services are recommended for the caregiver, and the caregiver fails to engage in or follow through with the recommended services, the department or supervising agency must promptly notify the court; and

(iii) Notify the parent with whom the child is being placed that he or she has an ongoing duty to notify the department or supervising agency of all persons who reside in the home or who may act as a caregiver for the child both prior to the placement of the child in the home and subsequent to the placement of the child in the home as long as the court retains jurisdiction of the dependency proceeding or the department is providing or monitoring either remedial services to the parent or services to ensure the safety of the child to any caregivers.

Caregivers may be required to engage in services under this subsection solely for the purpose of ensuring the present and future safety of a child who is a ward of the court. This subsection does not grant party status to any individual not already a party to the dependency proceeding, create an entitlement to services or a duty on the part of the department or supervising agency to provide services, or create judicial authority to order the provision of services to any person other than for the express purposes of this section or RCW 13.34.025

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or if the services are unavailable or unsuitable or the person is not eligible for such services.

(c) If the child is not returned home, the court shall establish in writing:

(i) Whether the agency is making reasonable efforts to provide services to the family and eliminate the need for placement of the child. If additional services, including housing assistance, are needed to facilitate the return of the child to the child's parents, the court shall order that reasonable services be offered specifying such services;

(ii) Whether there has been compliance with the case plan by the child, the child's parents, and the agency supervising the placement;

(iii) Whether progress has been made toward correcting the problems that necessitated the child's placement in out-of-home care;

(iv) Whether the services set forth in the case plan and the responsibilities of the parties need to be clarified or modified due to the availability of additional information or changed circumstances;

(v) Whether there is a continuing need for placement;

(vi) Whether a parent's homelessness or lack of suitable housing is a significant factor delaying permanency for the child by preventing the return of the child to the home of the child's parent and whether housing assistance should be provided by the department or supervising agency;

(vii) Whether the child is in an appropriate placement which adequately meets all physical, emotional, and educational needs;

~~((viii))~~ (viii) Whether preference has been given to placement with the child's relatives;

~~((viiii))~~ (ix) Whether both in-state and, where appropriate, out-of-state placements have been considered;

~~((ix))~~ (x) Whether the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

~~((x))~~ (xi) Whether terms of visitation need to be modified;

~~((xi))~~ (xii) Whether the court-approved long-term permanent plan for the child remains the best plan for the child;

~~((xii))~~ (xiii) Whether any additional court orders need to be made to move the case toward permanency; and

~~((xiii))~~ (xiv) The projected date by which the child will be returned home or other permanent plan of care will be implemented.

(d) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed.

(3)(a) In any case in which the court orders that a dependent child may be returned to or remain in the child's home, the in-home placement shall be contingent upon the following:

(i) The compliance of the parents with court orders related to the care and supervision of the child, including compliance with an agency case plan; and

(ii) The continued participation of the parents, if applicable, in available substance abuse or mental health treatment if substance abuse or mental illness was a contributing factor to the removal of the child.

(b) The following may be grounds for removal of the child from the home, subject to review by the court:

(i) Noncompliance by the parents with the agency case plan or court order;

(ii) The parent's inability, unwillingness, or failure to participate in available services or treatment for themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect; or

(iii) The failure of the parents to successfully and substantially complete available services or treatment for themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect.

(c) In a pending dependency case in which the court orders that a dependent child may be returned home and that child is later removed from the home, the court shall hold a review hearing within thirty days from the date of removal to determine whether the permanency plan should be changed, a termination petition should be filed, or other action is warranted. The best interests of the child shall be the court's primary consideration in the review hearing.

(4) The court's ~~((ability))~~ authority to order housing assistance under ~~((RCW 13.34.130 and this section))~~ this chapter is: (a) Limited to cases in which ~~((homelessness or the lack of adequate and safe housing is the primary reason for an out-of-home placement))~~ a parent's homelessness or lack of suitable housing is a significant factor delaying permanency for the child and housing assistance would aid the parent in providing an appropriate home for the child; and (b) subject to the availability of funds appropriated for this specific purpose. Nothing in this chapter shall be construed to create an entitlement to housing assistance nor to create judicial authority to order the provision of such assistance to any person or family if the assistance or funding are unavailable or the child or family are not eligible for such assistance.

(5) The court shall consider the child's relationship with siblings in accordance with RCW 13.34.130(3)."

Senator Regala 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. 1769.

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

#### MOTION

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

On page 1, line 2 of the title, after "matters;" strike the remainder of the title and insert "amending RCW 13.34.030 and 13.34.065; and reenacting and amending RCW 13.34.130 and 13.34.138."

#### MOTION

On motion of Senator Regala, the rules were suspended, Substitute House Bill No. 1769 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Regala spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1769 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1769 as amended by the Senate and the bill passed the Senate by the following vote:

Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Becker, Benton, Brandland, Carrell,

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Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Berkey, Brown, Jacobsen, Morton and Rockefeller

SUBSTITUTE HOUSE BILL NO. 1769 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. 2129, by Representative Eddy

Regarding the greenhouse gas emissions performance standard under chapter 80.80 RCW.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 80.80.010 and 2007 c 307 s 2 are each amended to read as follows:

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

(1) "Attorney general" means the Washington state office of the attorney general.

(2) "Auditor" means: (a) The Washington state auditor's office or its designee for consumer-owned utilities under its jurisdiction; or (b) an independent auditor selected by a consumer-owned utility that is not under the jurisdiction of the state auditor.

(3) "Average available greenhouse ((gases-[gas])) gas emissions output" means the level of greenhouse ((gases-[gas])) gas emissions as surveyed and determined by the energy policy division of the department of community, trade, and economic development under RCW 80.80.050.

(4) "Baseload electric generation" means electric generation from a power plant that is designed and intended to provide electricity at an annualized plant capacity factor of at least sixty percent.

(5) "Cogeneration facility" means a power plant in which the heat or steam is also used for industrial or commercial heating or cooling purposes and that meets federal energy regulatory commission standards for qualifying facilities under the public utility regulatory policies act of 1978 (16 U.S.C. Sec. 824a-3), as amended.

(6) "Combined-cycle natural gas thermal electric generation facility" means a power plant that employs a combination of one or more gas turbines and steam turbines in which electricity is produced in the steam turbine from otherwise lost waste heat exiting from one or more of the gas turbines.

(7) "Commission" means the Washington utilities and transportation commission.

(8) "Consumer-owned utility" means a municipal utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a

mutual corporation or association formed under chapter 24.06 RCW, or port district within which an industrial district has been established as authorized by Title 53 RCW, that is engaged in the business of distributing electricity to more than one retail electric customer in the state.

(9) "Department" means the department of ecology.

(10) "Distributed generation" means electric generation connected to the distribution level of the transmission and distribution grid, which is usually located at or near the intended place of use.

(11) "Electric utility" means an electrical company or a consumer-owned utility.

(12) "Electrical company" means a company owned by investors that meets the definition of RCW 80.04.010.

(13) "Governing board" means the board of directors or legislative authority of a consumer-owned utility.

(14) "Greenhouse gases" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(15) "Long-term financial commitment" means:

(a) Either a new ownership interest in baseload electric generation or an upgrade to a baseload electric generation facility; or

(b) A new or renewed contract for baseload electric generation with a term of five or more years for the provision of retail power or wholesale power to end-use customers in this state.

(16) "Plant capacity factor" means the ratio of the electricity produced during a given time period, measured in kilowatt-hours, to the electricity the unit could have produced if it had been operated at its rated capacity during that period, expressed in kilowatt-hours.

(17) "Power plant" means a facility for the generation of electricity that is permitted as a single plant by ~~((the energy facility site evaluation council or a local jurisdiction))~~ a jurisdiction inside or outside the state.

(18) "Upgrade" means any modification made for the primary purpose of increasing the electric generation capacity of a baseload electric generation facility. "Upgrade" does not include routine or necessary maintenance, installation of emission control equipment, installation, replacement, or modification of equipment that improves the heat rate of the facility, or installation, replacement, or modification of equipment for the primary purpose of maintaining reliable generation output capability that does not increase the heat input or fuel usage as specified in existing generation air quality permits as of July 22, 2007, but may result in incidental increases in generation capacity.

Sec. 2. RCW 80.80.040 and 2007 c 307 s 5 are each amended to read as follows:

(1) Beginning July 1, 2008, the greenhouse ((gases)) gas emissions performance standard for all baseload electric generation for which electric utilities enter into long-term financial commitments on or after such date is the lower of:

(a) One thousand one hundred pounds of greenhouse gases per megawatt-hour; or

(b) The average available greenhouse ((gases)) gas emissions output as determined under RCW 80.80.050.

(2) This chapter does not apply to long-term financial commitments with the Bonneville power administration.

(3) All baseload electric generation facilities in operation as of June 30, 2008, are deemed to be in compliance with the greenhouse ((gases)) gas emissions performance standard established under this section until the facilities are the subject of long-term financial commitments. All baseload electric

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generation that commences operation after June 30, 2008, and is located in Washington, must comply with the greenhouse ~~((gases))~~ gas emissions performance standard established in subsection (1) of this section.

~~((3))~~ (4) All electric generation facilities or power plants powered exclusively by renewable resources, as defined in RCW 19.280.020, are deemed to be in compliance with the greenhouse ~~((gases))~~ gas emissions performance standard established under this section.

~~((4))~~ (5) All cogeneration facilities in the state that are fueled by natural gas or waste gas or a combination of the two fuels, and that are in operation as of June 30, 2008, are deemed to be in compliance with the greenhouse ~~((gases))~~ gas emissions performance standard established under this section until the facilities are the subject of a new ownership interest or are upgraded.

~~((5))~~ (6) In determining the rate of emissions of greenhouse gases for baseload electric generation, the total emissions associated with producing electricity shall be included.

(7) In no case shall a long-term financial commitment be determined to be in compliance with the greenhouse gas emissions performance standard if the commitment includes more than twelve percent of electricity from unspecified sources.

(8) For a long-term financial commitment with multiple power plants, each specified power plant must be treated individually for the purpose of determining the annualized plant capacity factor and net emissions, and each power plant must comply with subsection (1) of this section, except as provided in subsections (3) through (5) of this section.

~~((6))~~ (9) The department shall establish an output-based methodology to ensure that the calculation of emissions of greenhouse gases for a cogeneration facility recognizes the total usable energy output of the process, and includes all greenhouse gases emitted by the facility in the production of both electrical and thermal energy. In developing and implementing the greenhouse ~~((gases))~~ gas emissions performance standard, the department shall consider and act in a manner consistent with any rules adopted pursuant to the public utilities regulatory policy act of 1978 (16 U.S.C. Sec. 824a-3), as amended.

~~((7))~~ (10) The following greenhouse ~~((gases))~~ gas emissions produced by baseload electric generation owned or contracted through a long-term financial commitment shall not be counted as emissions of the power plant in determining compliance with the greenhouse ~~((gases))~~ gas emissions performance standard:

(a) Those emissions that are injected permanently in geological formations;

(b) Those emissions that are permanently sequestered by other means approved by the department; and

(c) Those emissions sequestered or mitigated as approved under subsection ~~((13))~~ (16) of this section.

~~((8))~~ (11) In adopting and implementing the greenhouse ~~((gases))~~ gas emissions performance standard, the department of community, trade, and economic development energy policy division, in consultation with the commission, the department, the Bonneville power administration, the western electricity coordination council, the energy facility site evaluation council, electric utilities, public interest representatives, and consumer representatives, shall consider the effects of the greenhouse ~~((gases))~~ gas emissions performance standard on system reliability and overall costs to electricity customers.

~~((9))~~ (12) In developing and implementing the greenhouse ~~((gases))~~ gas emissions performance standard, the department shall, with assistance of the commission, the department of

community, trade, and economic development energy policy division, and electric utilities, and to the extent practicable, address long-term purchases of electricity from unspecified sources in a manner consistent with this chapter.

~~((10))~~ (13) The directors of the energy facility site evaluation council and the department shall each adopt rules under chapter 34.05 RCW in coordination with each other to implement and enforce the greenhouse ~~((gases))~~ gas emissions performance standard. The rules necessary to implement this section shall be adopted by June 30, 2008.

~~((11))~~ (14) In adopting the rules for implementing this section, the energy facility site evaluation council and the department shall include criteria to be applied in evaluating the carbon sequestration plan, for baseload electric generation that will rely on subsection ~~((7))~~ (10) of this section to demonstrate compliance, but that will commence sequestration after the date that electricity is first produced. The rules shall include but not be limited to:

(a) Provisions for financial assurances, as a condition of plant operation, sufficient to ensure successful implementation of the carbon sequestration plan, including construction and operation of necessary equipment, and any other significant costs;

(b) Provisions for geological or other approved sequestration commencing within five years of plant operation, including full and sufficient technical documentation to support the planned sequestration;

(c) Provisions for monitoring the effectiveness of the implementation of the sequestration plan;

(d) Penalties for failure to achieve implementation of the plan on schedule;

(e) Provisions for an owner to purchase emissions reductions in the event of the failure of a sequestration plan under subsection ~~((13))~~ (16) of this section; and

(f) Provisions for public notice and comment on the carbon sequestration plan.

~~((12))~~ (15)(a) Except as provided in (b) of this subsection, as part of its role enforcing the greenhouse ~~((gases))~~ gas emissions performance standard, the department shall determine whether sequestration or a plan for sequestration will provide safe, reliable, and permanent protection against the greenhouse gases entering the atmosphere from the power plant and all ancillary facilities.

(b) For facilities under its jurisdiction, the energy facility site evaluation council shall contract for review of sequestration or the carbon sequestration plan with the department consistent with the conditions under (a) of this subsection, consider the adequacy of sequestration or the plan in its adjudicative proceedings conducted under RCW 80.50.090(3), and incorporate specific findings regarding adequacy in its recommendation to the governor under RCW 80.50.100.

~~((13))~~ (16) A project under consideration by the energy facility site evaluation council by July 22, 2007, is required to include all of the requirements of subsection ~~((11))~~ (14) of this section in its carbon sequestration plan submitted as part of the energy facility site evaluation council process. A project under consideration by the energy facility site evaluation council by July 22, 2007, that receives final site certification agreement approval under chapter 80.50 RCW shall make a good faith effort to implement the sequestration plan. If the project owner determines that implementation is not feasible, the project owner shall submit documentation of that determination to the energy facility site evaluation council. The documentation shall demonstrate the steps taken to implement the sequestration plan and evidence of the technological and economic barriers to

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successful implementation. The project owner shall then provide to the energy facility site evaluation council notification that they shall implement the plan that requires the project owner to meet the greenhouse ~~((gases))~~ gas emissions performance standard by purchasing verifiable greenhouse ~~((gases))~~ gas emissions reductions from an electric generating facility located within the western interconnection, where the reduction would not have occurred otherwise or absent this contractual agreement, such that the sum of the emissions reductions purchased and the facility's emissions meets the standard for the life of the facility.

**Sec. 3.** RCW 80.80.060 and 2007 c 307 s 8 are each amended to read as follows:

(1) No electrical company may enter into a long-term financial commitment unless the baseload electric generation supplied under such a long-term financial commitment complies with the greenhouse gases emissions performance standard established under RCW 80.80.040.

(2) In order to enforce the requirements of this chapter, the commission shall review in a general rate case or as provided in subsection (5) of this section any long-term financial commitment entered into by an electrical company after June 30, 2008, to determine whether the baseload electric generation to be supplied under that long-term financial commitment complies with the greenhouse gases emissions performance standard established under RCW 80.80.040.

(3) In determining whether a long-term financial commitment is for baseload electric generation, the commission shall consider the design of the power plant and its intended use, based upon the electricity purchase contract, if any, permits necessary for the operation of the power plant, and any other matter the commission determines is relevant under the circumstances.

(4) Upon application by an electric utility, the commission may provide a case-by-case exemption from the greenhouse gases emissions performance standard to address: (a) Unanticipated electric system reliability needs; ~~((or))~~ (b) extraordinary cost impacts on utility ratepayers; or (c) catastrophic events or threat of significant financial harm that may arise from unforeseen circumstances.

(5) Upon application by an electrical company, the commission shall determine whether the company's proposed decision to acquire electric generation or enter into a power purchase agreement for electricity complies with the greenhouse gases emissions performance standard established under RCW 80.80.040~~((, whether the company has a need for the resource, and whether the specific resource selected is appropriate. The commission shall take into consideration factors such as the company's forecasted loads, need for energy, power plant technology, expected costs, and other associated investment decisions)).~~ The commission shall not decide in a proceeding under this subsection (5) issues involving the actual costs to construct and operate the selected resource, cost recovery, or other issues reserved by the commission for decision in a general rate case or other proceeding for recovery of the resource or contract costs. ~~((A proceeding under this subsection (5) shall be conducted pursuant to chapter 34.05 RCW (part IV). The commission shall adopt rules to provide that the schedule for a proceeding under this subsection takes into account both (a) the needs of the parties to the proposed resource acquisition or power purchase agreement for timely decisions that allow transactions to be completed; and (b) the procedural rights to be provided to parties in chapter 34.05 RCW (part IV), including intervention, discovery, briefing, and hearing.))~~

(6) An electrical company may account for and defer for later consideration by the commission costs incurred in connection with ~~((the))~~ a long-term financial commitment, including operating and maintenance costs, depreciation, taxes, and cost of invested capital. The deferral begins with the date on which the power plant begins commercial operation or the effective date of the power purchase agreement and continues for a period not to exceed twenty-four months; provided that if during such period the company files a general rate case or other proceeding for the recovery of such costs, deferral ends on the effective date of the final decision by the commission in such proceeding. Creation of such a deferral account does not by itself determine the actual costs of the long-term financial commitment, whether recovery of any or all of these costs is appropriate, or other issues to be decided by the commission in a general rate case or other proceeding for recovery of these costs. For the purpose of this subsection (6) only, the term "long-term financial commitment" also includes an electric company's ownership or power purchase agreement with a term of five or more years associated with an eligible renewable resource as defined in RCW 19.285.030.

(7) The commission shall consult with the department to apply the procedures adopted by the department to verify the emissions of greenhouse gases from baseload electric generation under RCW 80.80.040. The department shall report to the commission whether baseload electric generation will comply with the greenhouse gases emissions performance standard for the duration of the period the baseload electric generation is supplied to the electrical company.

(8) The commission shall adopt rules for the enforcement of this section with respect to electrical companies and adopt procedural rules for approving costs incurred by an electrical company under subsection (4) of this section.

(9) The commission shall adopt rules necessary to implement this section by December 31, 2008.

**Sec. 4.** RCW 80.80.070 and 2007 c 307 s 9 are each amended to read as follows:

(1) No consumer-owned utility may enter into a long-term financial commitment unless the baseload electric generation supplied under such a long-term financial commitment complies with the greenhouse ~~((gases))~~ gas emissions performance standard established under RCW 80.80.040.

(2) The governing board shall review and make a determination on any long-term financial commitment by the utility, pursuant to this chapter and after consultation with the department, to determine whether the baseload electric generation to be supplied under that long-term financial commitment complies with the greenhouse ~~((gases))~~ gas emissions performance standard established under RCW 80.80.040. No consumer-owned utility may enter into a long-term financial commitment unless the baseload electric generation to be supplied under that long-term financial commitment complies with the greenhouse ~~((gases))~~ gas emissions performance standard established under RCW 80.80.040.

(3) In confirming that a long-term financial commitment is for baseload electric generation, the governing board shall consider the design of the power plant and the intended use of the power plant based upon the electricity purchase contract, if any, permits necessary for the operation of the power plant, and any other matter the governing board determines is relevant under the circumstances.

(4) The governing board may provide a case-by-case exemption from the greenhouse ~~((gases))~~ gas emissions performance standard to address: (a) Unanticipated electric

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system reliability needs; ((or)) (b) extraordinary cost impacts on utility ratepayers; or (c) catastrophic events or threat of significant financial harm that may arise from unforeseen circumstances.

(5) The governing board shall apply the procedures adopted by the department to verify the emissions of greenhouse gases from baseload electric generation under RCW 80.80.040, and may request assistance from the department in doing so.

(6) For consumer-owned utilities, the auditor is responsible for auditing compliance with this chapter and rules adopted under this chapter that apply to those utilities and the attorney general is responsible for enforcing that compliance."

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 Environment, Water & Energy to House Bill No. 2129.

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 "80.80 RCW;" strike the remainder of the title and insert "and amending RCW 80.80.010, 80.80.040, 80.80.060, and 80.80.070."

## MOTION

On motion of Senator Pridemore, the rules were suspended, House Bill No. 2129 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 Honeyford 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. 2129 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2129 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Berkey, Brown, Jacobsen and Rockefeller

HOUSE BILL NO. 2129 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Marr, Senator Kohl-Welles was excused.

## SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1879, by House Committee on Education Appropriations (originally sponsored by Representatives Jacks, Kagi, Moeller, Orcutt, Wallace, Appleton and Kenney)

Providing for the delivery of educational services to children who are deaf and hearing impaired. Revised for 2nd Substitute: Providing for the delivery of educational services to children who are deaf and hard of hearing.

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 that the education of children who are deaf presents unique challenges because deafness is a low-incidence disability significantly impacting the child's ability to access communication at home, at school, and in the community. The legislature further finds that over the past fifty years, there have been numerous advances in technology as well as a growing awareness about the importance of delivering services to children in a variety of communication modalities to support their early and continued access to communication. The legislature intends to enhance the coordination of regionally delivered educational services and supports for children who are deaf or hard of hearing and to promote the development of communication-rich learning environments for these children.

**NEW SECTION. Sec. 2.** A new section is added to chapter 72.42 RCW to read as follows:

(1) The Washington state center for childhood deafness and hearing loss is established to provide statewide leadership for the coordination and delivery of educational services to children who are deaf or hard of hearing. The activities of the center shall be under the authority of the director and the board of trustees. The superintendent and board of trustees of the state school for the deaf as of the effective date of this section shall be the director and board of trustees of the center.

(2) The center's primary functions are:

(a) Managing and directing the supervision of the state school for the deaf;

(b) Providing statewide leadership and support for the coordination of regionally delivered educational services in the full range of communication modalities, for children who are deaf or hard of hearing; and

(c) Collaborating with appropriate public and private partners for the training and professional development of educators serving children who are deaf or hard of hearing.

**Sec. 3.** RCW 72.40.010 and 2002 c 209 s 1 are each amended to read as follows:

There are established at Vancouver, Clark county, a school which shall be known as the state school for the blind, and a separate school which shall be known as the state school for the deaf. The primary purpose of the state school for the blind and the state school for the deaf is to educate and train hearing and visually impaired children.



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The school for the blind shall be under the direction of the superintendent with the advice of the board of trustees. The school for the deaf shall be under the direction of the ~~((superintendent))~~ director of the center or the director's designee and the board of trustees.

**Sec. 4.** RCW 72.40.019 and 1985 c 378 s 14 are each amended to read as follows:

The governor shall appoint a ~~((superintendent))~~ director for the ~~((state school for the deaf))~~ Washington state center for childhood deafness and hearing loss. The ~~((superintendent))~~ director shall have a masters or higher degree from an accredited college or university in school administration or deaf education, five or more years of experience teaching or providing habilitative services to deaf or hard of hearing students ~~((in the classroom))~~, and three or more years administrative or supervisory experience in programs for deaf or hard of hearing students.

**NEW SECTION. Sec. 5.** A new section is added to chapter 72.42 RCW to read as follows:

In addition to any other powers and duties prescribed by law, the director of the Washington state center for childhood deafness and hearing loss:

(1) Shall be responsible for the supervision and management of the center, including the state school for the deaf, and the property of various kinds. The director may designate an individual to oversee the day-to-day operation and supervision of students at the school;

(2) Shall employ members of the faculty, administrative officers, and other employees, who shall all be subject to chapter 41.06 RCW, the state civil service law, unless specifically exempted by other provisions of law;

(3) Shall provide technical assistance and support as appropriate to local and regional efforts to build critical mass and communication-rich networking opportunities for children who are deaf or hard of hearing and their families;

(4) Shall establish the course of study including vocational training, with the assistance of the faculty and the approval of the board of trustees;

(5) Shall, as approved by the board of trustees, control and authorize the use of the facilities for night school, summer school, public meetings, applied research and training for the instruction of students who are deaf or hard of hearing, outreach and support to families of children who are deaf or hard of hearing, or other purposes consistent with the purposes of the center;

(6) Shall purchase all supplies and lease or purchase equipment and other personal property needed for the operation or maintenance of the center;

(7) Shall prepare, submit to the board of trustees for approval, and administer the budget consistent with RCW 43.88.160 and the budget and accounting act, chapter 43.88 RCW generally, as applicable;

(8) Shall provide technical assistance and support to educational service districts for the regional delivery of a full range of educational services to students who are deaf or hard of hearing, including but not limited to services relying on American Sign Language, auditory oral education, total communication, and signed exact English;

(9) As requested by educational service districts, shall recruit, employ, and deploy itinerant teachers to provide in-district services to children who are deaf or hard of hearing;

(10) May establish criteria, in addition to state certification, for the teachers at the school and employees of the center;

(11) May establish, with the approval of the board of trustees, new facilities as needs demand;

(12) May adopt rules, under chapter 34.05 RCW, as approved by the board of trustees and as deemed necessary for the governance, management, and operation of the center;

(13) May adopt rules, as approved by the board of trustees, for pedestrian and vehicular traffic on property owned, operated, and maintained by the center;

(14) Except as otherwise provided by law, may enter into contracts as the director deems essential to the purpose of the center;

(15) May receive gifts, grants, conveyances, devises, and bequests of real or personal property from whatever source, as may be made from time to time, in trust or otherwise, whenever the terms and conditions will aid in carrying out the programs of the center; sell, lease, or exchange, invest, or expend the same or the proceeds, rents, profits, and income thereof except as limited by the terms and conditions thereof; and adopt rules to govern the receipt and expenditure of the proceeds, rents, profits, and income thereof;

(16) May adopt rules, as approved by the board of trustees, providing for the transferability of employees between the center and the school for the blind consistent with collective bargaining agreements in effect; and

(17) May adopt rules under chapter 34.05 RCW, as approved by the board of trustees, and perform all other acts not forbidden by law as the director deems necessary or appropriate to the administration of the center.

**Sec. 6.** RCW 72.40.024 and 2002 c 209 s 4 are each amended to read as follows:

In addition to the powers and duties under RCW 72.40.022 ~~((and 72.40.023))~~ and section 5 of this act, the superintendent of ~~((each))~~ the school for the blind and the director of the Washington state center for childhood deafness and hearing loss, or the director's designee, shall:

(1) Monitor the location and educational placement of each student reported to the superintendent~~((s))~~ and the director, or the director's designee, by the educational service district superintendents;

(2) Provide information about educational programs, instructional techniques, materials, equipment, and resources available to students with visual or auditory impairments to the parent or guardian, educational service district superintendent, and the superintendent of the school district where the student resides; and

(3) Serve as a consultant to the office of the superintendent of public instruction, provide instructional leadership, and assist school districts in improving their instructional programs for students with visual or hearing impairments.

**Sec. 7.** RCW 72.40.028 and 2006 c 263 s 829 are each amended to read as follows:

All teachers ~~((at the state school for the deaf))~~ employed by the Washington state center for childhood deafness and hearing loss and the state school for the blind shall meet all certification requirements and the programs shall meet all accreditation requirements and conform to the standards defined by law or by rule of the Washington professional educator standards board or the office of the state superintendent of public instruction. The superintendent~~((s))~~ and the director, by rule, may adopt additional educational standards for their respective ~~((schools))~~ facilities. Salaries of all certificated employees shall be set so as to conform to and be contemporary with salaries paid to other certificated employees of similar background and experience in the school district in which the program or facility is located. The superintendent~~((s))~~ and the director may provide for provisional certification for teachers in their respective

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((schools)) facilities including certification for emergency, temporary, substitute, or provisional duty.

**Sec. 8.** RCW 72.40.120 and 1991 c 65 s 1 are each amended to read as follows:

Any appropriation for the ((school for the deaf)) Washington state center for childhood deafness and hearing loss or the school for the blind shall be made directly to the ((school for the deaf)) center or the school for the blind.

**Sec. 9.** RCW 72.40.200 and 2000 c 125 s 1 are each amended to read as follows:

The ((state school for the deaf)) Washington state center for childhood deafness and hearing loss and the state school for the blind shall promote the personal safety of students and protect the children who attend from child abuse and neglect as defined in RCW 26.44.020.

**Sec. 10.** RCW 72.40.210 and 2000 c 125 s 2 are each amended to read as follows:

The ((superintendents)) director of the ((state school for the deaf)) Washington state center for childhood deafness and hearing loss and the superintendent of the state school for the blind or their designees shall immediately report to the persons indicated the following events:

(1) To the child's parent, custodian, or guardian:

(a) The death of the child;

(b) Hospitalization of a child in attendance or residence at the ((school)) facility;

(c) Allegations of child abuse or neglect in which the parent's child in attendance or residence at the ((school)) facility is the alleged victim;

(d) Allegations of physical or sexual abuse in which the parent's child in attendance or residence at the ((school)) facility is the alleged perpetrator;

(e) Life-threatening illness;

(f) The attendance at the ((school)) facility of any child who is a registered sex offender under RCW 9A.44.130 as permitted by RCW 4.24.550.

(2) Notification to the parent shall be made by the means most likely to be received by the parent. If initial notification is made by telephone, such notification shall be followed by notification in writing within forty-eight hours after the initial ((oral)) verbal contact is made.

**NEW SECTION. Sec. 11.** (1) The state school for the deaf is hereby abolished and its powers, duties, and functions are hereby transferred to the Washington state center for childhood deafness and hearing loss. All references to the superintendent or the state school for the deaf in the Revised Code of Washington shall be construed to mean the director or the Washington state center for childhood deafness and hearing loss.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the state school for the deaf shall be delivered to the custody of the Washington state center for childhood deafness and hearing loss. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the state school for the deaf shall be made available to the Washington state center for childhood deafness and hearing loss. All funds, credits, or other assets held by the state school for the deaf shall be assigned to the Washington state center for childhood deafness and hearing loss.

(b) Any appropriations made to the state school for the deaf shall, on the effective date of this section, be transferred and credited to the Washington state center for childhood deafness and hearing loss.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the state school for the deaf are transferred to the jurisdiction of the Washington state center for childhood deafness and hearing loss. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the Washington state center for childhood deafness and hearing loss to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the state school for the deaf shall be continued and acted upon by the Washington state center for childhood deafness and hearing loss. All existing contracts and obligations shall remain in full force and shall be performed by the Washington state center for childhood deafness and hearing loss.

(5) The transfer of the powers, duties, functions, and personnel of the state school for the deaf shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) The existing bargaining units shall be transferred in their entirety without the merging of other bargaining units or the inclusion of employees from other bargaining units. Nothing contained in this section may be construed to alter any of the existing collective bargaining units unless the bargaining unit has been modified by action of the public employment relations commission as provided by law. Therefore, the certification of the existing bargaining units shall remain. However, the commission may, upon request, amend the certification to reflect the name of the new agency. In addition, nothing in this section may be construed to alter the provisions of any existing collective bargaining agreement until the agreement has expired.

**Sec. 12.** RCW 72.40.031 and 1985 c 378 s 16 are each amended to read as follows:

The school year for the state school for the blind and the state school for the deaf shall commence on the first day of July of each year and shall terminate on the 30th day of June of the succeeding year. The regular school term shall be for a period of nine months and shall commence as near as reasonably practical at the time of the commencement of regular terms in ((the)) other public schools, with the equivalent number of days as are now required by law, and the regulations of the superintendent of public instruction as now or hereafter amended, during the school year in ((the)) other public schools. The school and the center shall observe all legal holidays, in the same manner as other agencies of state government, and ((the schools)) will not be in session on such days and such other days as may be approved by the ((respective)) superintendent((s)) or the director. During the period when the schools are not in session during the regular school term, schools may be operated, subject to the approval of the ((respective)) superintendent((s)) or the director or the director's

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designee, for the instruction of students or for such other reasons which are in furtherance of the objects and purposes of ~~((such schools))~~ the respective facilities.

**Sec. 13.** RCW 72.42.010 and 2002 c 209 s 5 are each amended to read as follows:

It is the intention of the legislature, in creating a board of trustees for the ~~((state school for the deaf))~~ Washington state center for childhood deafness and hearing loss to perform the duties set forth in this chapter, that the board of trustees perform needed oversight services to the governor and the legislature of the ~~((Washington state school for the deaf))~~ center in the development of programs for the hard of hearing ~~((impaired))~~, and in the operation of the ~~((Washington state))~~ center, including the school for the deaf.

**Sec. 14.** RCW 72.42.015 and 1985 c 378 s 32 are each amended to read as follows:

Unless the context clearly requires otherwise as used in this chapter "~~((superintendent))~~ director" means ~~((superintendent))~~ the director of the Washington state ~~((school for the deaf))~~ center for childhood deafness and hearing loss.

**Sec. 15.** RCW 72.42.016 and 2002 c 209 s 6 are each amended to read as follows:

Unless the context clearly requires otherwise, as used in this chapter:

(1) "Center" means the Washington state center for childhood deafness and hearing loss serving local school districts across the state; and

(2) "School" means the Washington state residential school for the deaf located in Vancouver, Washington.

**Sec. 16.** RCW 72.42.021 and 2002 c 209 s 7 are each amended to read as follows:

(1) The governance of the center and the school shall be vested in a board of trustees. The board shall consist of nine members appointed by the governor, with the consent of the senate. The board shall be composed of a resident from each of the state's congressional districts and may include:

(a) One member who is deaf or hard of hearing ~~((impaired))~~;

(b) Two members who are experienced educational professionals;

(c) One member who is experienced in providing residential services to youth; and

(d) One member who is the parent of a child who is deaf or hard of hearing ~~((impaired))~~ and who is receiving or has received educational services related to deafness or hearing impairment from a public educational institution.

(2) No voting trustee may be an employee of the school or the center, a member of the board of directors of any school district, a member of the governing board of any public or private educational institution ~~((, a school district or educational service district administrator appointed after July 1, 1986;))~~ or an elected officer or member of the legislative authority of any municipal corporation. No more than two voting trustees may be school district or educational service district administrators appointed after July 1, 1986.

(3) Trustees shall be appointed by the governor to serve a term of five years, except that any person appointed to fill a vacancy occurring prior to the expiration of a term shall be appointed within sixty days of the vacancy and appointed only for the remainder of the term. Of the initial members, three must be appointed for two-year terms, three must be appointed for three-year terms, and the remainder must be appointed for five-year terms.

(4) The board shall not be deemed unlawfully constituted and a trustee shall not be deemed ineligible to serve the remainder of the trustee's unexpired term on the board solely by

reason of the establishment of new or revised boundaries for congressional districts. In such an event, each trustee may continue to serve in office for the balance of the term for which he or she was appointed so long as the trustee continues to reside within the boundaries of the congressional district as they existed at the time of his or her appointment. Vacancies which occur in a trustee position during the balance of any term shall be filled pursuant to subsection (3) of this section by a successor who resides within the boundaries of the congressional district from which the member whose office was vacated was appointed as they existed at the time of his or her appointment. At the completion of such term, and thereafter, a successor shall be appointed from the congressional district which corresponds in number with the congressional district from which the incumbent was appointed.

**Sec. 17.** RCW 72.42.041 and 2002 c 209 s 8 are each amended to read as follows:

The board of trustees of the ~~((school))~~ center:

(1) Shall adopt rules and regulations for its own governance;

(2) Shall direct the development of, approve, and monitor the enforcement of policies, rules, and regulations pertaining to the school and the center, including but not limited to:

(a) The use of classrooms and other facilities for summer or night schools or for public meetings and any other uses consistent with the mission of the center;

(b) Pedestrian and vehicular traffic on property owned, operated, or maintained by the ~~((school))~~ center;

(c) Governance, management, and operation of the residential facilities;

(d) Transferability of employees between the ~~((school for the deaf))~~ center and the school for the blind consistent with collective bargaining agreements in effect; and

(e) Compliance with state and federal education civil rights laws at the school;

(3) Shall develop a process for recommending candidates for the position of ~~((superintendent))~~ director and upon a vacancy shall submit a list of three qualified candidates for ~~((superintendent))~~ director to the governor;

(4) Shall submit an evaluation of the ~~((superintendent))~~ director to the governor by July 1st of each odd-numbered year that includes a recommendation regarding the retention of the ~~((superintendent))~~ director;

(5) May recommend to the governor at any time that the ~~((superintendent))~~ director be removed for conduct deemed by the board to be detrimental to the interests of the ~~((school))~~ center;

(6) Shall prepare and submit by July 1st of each even-numbered year a report to the governor and the appropriate committees of the legislature which contains a detailed summary of the ~~((school's))~~ center's progress on performance objectives and the ~~((school's))~~ center's work, facility conditions, and revenues and costs of the ~~((school))~~ center for the previous year and which contains those recommendations it deems necessary and advisable for the governor and the legislature to act on;

(7) Shall approve the ~~((school's))~~ center's budget and all funding requests, both operating and capital, submitted to the governor;

(8) Shall direct and approve the development and implementation of comprehensive programs of education, training, and as needed residential living, such that students served by the school receive a challenging and quality education in a safe school environment;

(9) Shall direct, monitor, and approve the implementation of a comprehensive continuous quality improvement system for the ~~((school))~~ center;

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(10) Shall monitor and inspect all existing facilities of the ~~((school))~~ center and report its findings in its biennial report to the governor and appropriate committees of the legislature; and

(11) May grant to every student of the school, upon graduation or completion of a program or course of study, a suitable diploma, nonbaccalaureate degree, or certificate.

**Sec. 18.** RCW 72.40.070 and 1985 c 378 s 22 are each amended to read as follows:

It shall be the duty of each educational service district to make a full and specific report of visually ~~((or hearing))~~ impaired or deaf or hard of hearing youth to the superintendent of the school for the blind or the ~~((school for the deaf))~~ director of the Washington state center for childhood deafness and hearing loss, or the director's designee, as the case may be and the superintendent of public instruction, annually. The superintendent of public instruction shall report about the deaf or hard of hearing or visually impaired youth to the school for the blind and the ~~((school for the deaf))~~ Washington state center for childhood deafness and hearing loss, as the case may be, annually.

**Sec. 19.** RCW 72.40.220 and 2000 c 125 s 3 are each amended to read as follows:

(1) The ~~((superintendents))~~ director of the ~~((state school for the deaf))~~ Washington state center for childhood deafness and hearing loss, or the director's designee, and the superintendent of the state school for the blind shall maintain in writing and implement behavior management policies and procedures that accomplish the following:

- (a) Support the child's appropriate social behavior, self-control, and the rights of others;
- (b) Foster dignity and self-respect for the child;
- (c) Reflect the ages and developmental levels of children in care.

(2) The state school for the deaf and the state school for the blind shall use proactive, positive behavior support techniques to manage potential child behavior problems. These techniques shall include but not be limited to:

- (a) Organization of the physical environment and staffing patterns to reduce factors leading to behavior incidents;
- (b) Intervention before behavior becomes disruptive, in the least invasive and least restrictive manner available;
- (c) Emphasis on verbal deescalation to calm the upset child;
- (d) Redirection strategies to present the child with alternative resolution choices.

**Sec. 20.** RCW 72.40.250 and 2000 c 125 s 6 are each amended to read as follows:

In addition to the powers and duties under RCW 72.40.022 and 72.40.024, the ~~((superintendents))~~ director of the ~~((state school for the deaf))~~ Washington state center for childhood deafness and hearing loss, or the director's designee, and the superintendent of the state school for the blind shall:

(1) Develop written procedures for the supervision of employees and volunteers who have the potential for contact with students. Such procedures shall be designed to prevent child abuse and neglect by providing for adequate supervision of such employees and volunteers, taking into consideration such factors as the student population served, architectural factors, and the size of the facility. Such procedures shall include, but need not be limited to, the following:

- (a) Staffing patterns and the rationale for such;
- (b) Responsibilities of supervisors;
- (c) The method by which staff and volunteers are made aware of the identity of all supervisors, including designated on-site supervisors;

(d) Provision of written supervisory guidelines to employees and volunteers;

(e) Periodic supervisory conferences for employees and volunteers; and

(f) Written performance evaluations of staff to be conducted by supervisors in a manner consistent with applicable provisions of the civil service law.

(2) Develop written procedures for the protection of students when there is reason to believe an incident has occurred which would render a ~~((child))~~ minor student an abused or neglected child within the meaning of RCW 26.44.020. Such procedures shall include, but need not be limited to, the following:

(a) Investigation. Immediately upon notification that a report of child abuse or neglect has been made to the department of social and health services or a law enforcement agency, the superintendent or the director, or the director's designee, shall:

- (i) Preserve any potential evidence through such actions as securing the area where suspected abuse or neglect occurred;
- (ii) Obtain proper and prompt medical evaluation and treatment, as needed, with documentation of any evidence of abuse or neglect; and
- (iii) Provide necessary assistance to the department of social and health services and local law enforcement in their investigations;

(b) Safety. Upon notification that a report of suspected child abuse or neglect has been made to the department of social and health services or a law enforcement agency, the superintendent or the director or his or her designee, with consideration for causing as little disruption as possible to the daily routines of the students, shall evaluate the situation and immediately take appropriate action to assure the health and safety of the students involved in the report and of any other students similarly situated, and take such additional action as is necessary to prevent future acts of abuse or neglect. Such action may include:

- (i) Consistent with federal and state law:
  - (A) Removing the alleged perpetrator from the school;
  - (B) Increasing the degree of supervision of the alleged perpetrator; and
  - (C) Initiating appropriate disciplinary action against the alleged perpetrator;
- (ii) Provision of increased training and increased supervision to volunteers and staff pertinent to the prevention and remediation of abuse and neglect;

(iii) Temporary removal of the students from a program and reassignment of the students within the school, as an emergency measure, if it is determined that there is a risk to the health or safety of such students in remaining in that program. Whenever a student is removed, pursuant to this subsection (2)(b)(iii), from a special education program or service specified in his or her individualized education program, the action shall be reviewed in an individualized education program meeting; and

(iv) Provision of counseling to the students involved in the report or any other students, as appropriate;

(c) Corrective action plans. Upon receipt of the results of an investigation by the department of social and health services pursuant to a report of suspected child abuse or neglect, the superintendent or the director, or the director's designee, after consideration of any recommendations by the department of social and health services for preventive and remedial action, shall implement a written plan of action designed to assure the continued health and safety of students and to provide for the prevention of future acts of abuse or neglect.

**Sec. 21.** RCW 72.40.280 and 2002 c 208 s 2 are each amended to read as follows:

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(1) The department of social and health services must periodically monitor the residential program at the state school for the deaf, including but not limited to examining the residential-related policies and procedures as well as the residential facilities. The department of social and health services must make recommendations to the ~~((school's superintendent))~~ director and the board of trustees of the center or its successor board on health and safety improvements related to child safety and well-being. The department of social and health services must conduct the monitoring reviews at least ~~((quarterly until December 1, 2006))~~ annually. The director or the director's designee may from time to time request technical assistance from the department of social and health services.

(2) The department of social and health services must conduct a comprehensive child health and safety review, as defined in rule, of the residential program at the state school for the deaf every three years. ~~((The department of social and health services must deliver the first health and safety review to the governor, the legislature, the school's superintendent, and the school's board of trustees or successor board by December 1, 2004.))~~

(3) The state school for the deaf must provide the department of social and health services' staff with full and complete access to all records and documents that the department staff may request to carry out the requirements of this section. The department of social and health services must have full and complete access to all students and staff of the state school for the deaf to conduct interviews to carry out the requirements of this section.

(4) For the purposes of this section, the department of social and health services must use the safety standards established in this chapter when conducting the reviews.

**Sec. 22.** RCW 72.42.060 and 1975-'76 2nd ex.s. c 34 s 168 are each amended to read as follows:

Each member of the board of trustees shall receive travel expenses as provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended, and such payments shall be a proper charge to any funds appropriated or allocated for the support of the ~~((state school for the deaf))~~ Washington state center for childhood deafness and hearing loss.

**Sec. 23.** RCW 26.44.210 and 2002 c 208 s 1 are each amended to read as follows:

(1) The department must investigate referrals of alleged child abuse or neglect occurring at the state school for the deaf, including alleged incidents involving students abusing other students; determine whether there is a finding of abuse or neglect; and determine whether a referral to law enforcement is appropriate under this chapter.

(2) The department must send a copy of the investigation report, including the finding, regarding any incidents of alleged child abuse or neglect at the state school for the deaf to the ~~((school's superintendent))~~ center's director, or the director's designee. The department may include recommendations to the ~~((superintendent))~~ director and the board of trustees or its successor board for increasing the safety of the school's students.

**Sec. 24.** RCW 28A.155.160 and 2007 c 115 s 15 are each amended to read as follows:

Notwithstanding any other provision of law, the office of the superintendent of public instruction, the department of early learning, the Washington state ~~((school for the deaf))~~ center for childhood deafness and hearing loss, the Washington state school for the blind, school districts, educational service districts, and all other state and local government educational agencies and the department of services for the blind, the

department of social and health services, and all other state and local government agencies concerned with the care, education, or habilitation or rehabilitation of children with disabilities may enter into interagency cooperative agreements for the purpose of providing assistive technology devices and services to children with disabilities. Such arrangements may include but are not limited to interagency agreements for the acquisition, including joint funding, maintenance, loan, sale, lease, or transfer of assistive technology devices and for the provision of assistive technology services including but not limited to assistive technology assessments and training.

For the purposes of this section, "assistive device" means any item, piece of equipment, or product system, whether acquired commercially off-the-shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of children with disabilities. The term "assistive technology service" means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Assistive technology service includes:

(1) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;

(2) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;

(3) Selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing of assistive technology devices;

(4) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(5) Training or technical assistance for a child with a disability or if appropriate, the child's family; and

(6) Training or technical assistance for professionals, including individuals providing education and rehabilitation services, employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of children with disabilities.

**Sec. 25.** RCW 28A.310.010 and 1988 c 65 s 1 are each amended to read as follows:

It shall be the intent and purpose of this chapter to establish educational service districts as regional agencies which are intended to:

(1) Provide cooperative and informational services to local school districts;

(2) Assist the superintendent of public instruction and the state board of education in the performance of their respective statutory or constitutional duties; and

(3) Provide services to school districts and to the ~~((school for the deaf))~~ Washington state center for childhood deafness and hearing loss and the school for the blind to assure equal educational opportunities.

**Sec. 26.** RCW 28A.310.180 and 1990 c 33 s 276 are each amended to read as follows:

In addition to other powers and duties as provided by law, every educational service district board shall:

(1) Comply with rules or regulations of the state board of education and the superintendent of public instruction.

(2) If the district board deems necessary, establish and operate for the schools within the boundaries of the educational service district a depository and distribution center for films, tapes, charts, maps, and other instructional material as recommended by the school district superintendents within the

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service area of the educational service district: PROVIDED, That the district may also provide the services of the depository and distribution center to private schools within the district so long as such private schools pay such fees that reflect actual costs for services and the use of instructional materials as may be established by the educational service district board.

(3) Establish cooperative service programs for school districts within the educational service district and joint purchasing programs for schools within the educational service district pursuant to RCW 28A.320.080(3): PROVIDED, That on matters relating to cooperative service programs the board and superintendent of the educational service district shall seek the prior advice of the superintendents of local school districts within the educational service district.

(4) Establish direct student service programs for school districts within the educational service district including pupil transportation. However, for the provision of state-funded pupil transportation for special education cooperatives programs for special education conducted under RCW 28A.155.010 through 28A.155.100, the educational service district, with the consent of the participating school districts, shall be entitled to receive directly state apportionment funds for that purpose: PROVIDED, That the board of directors and superintendent of a local school district request the educational service district to perform said service or services: PROVIDED FURTHER, That the educational service district board of directors and superintendents agree to provide the requested services: PROVIDED, FURTHER, That the provisions of chapter 39.34 RCW are strictly adhered to: PROVIDED FURTHER, That the educational service district board of directors may contract with the ~~((school for the deaf))~~ Washington state center for childhood deafness and hearing loss and the school for the blind to provide transportation services or other services necessary for the regional delivery of educational services for children who are deaf or hearing impaired.

**Sec. 27.** RCW 28A.310.200 and 2006 c 263 s 610 are each amended to read as follows:

In addition to other powers and duties as provided by law, every educational service district board shall:

(1) Approve the budgets of the educational service district in accordance with the procedures provided for in this chapter;

(2) Meet regularly according to the schedule adopted at the organization meeting and in special session upon the call of the chair or a majority of the board;

(3) Approve the selection of educational service district personnel and clerical staff as provided in RCW 28A.310.230;

(4) Fix the amount of and approve the bonds for those educational service district employees designated by the board as being in need of bonding;

(5) Keep in the educational service district office a full and correct transcript of the boundaries of each school district within the educational service district;

(6) Acquire by borrowing funds or by purchase, lease, devise, bequest, and gift and otherwise contract for real and personal property necessary for the operation of the educational service district and to the execution of the duties of the board and superintendent thereof and sell, lease, or otherwise dispose of that property not necessary for district purposes. No real property shall be acquired or alienated without the prior approval of the superintendent of public instruction and the acquisition or alienation of all such property shall be subject to such provisions as the superintendent may establish. When borrowing funds for the purpose of acquiring property, the educational service district board shall pledge as collateral the

property to be acquired. Borrowing shall be evidenced by a note or other instrument between the district and the lender;

(7) Under RCW 28A.310.010, upon the written request of the board of directors of a local school district or districts served by the educational service district, the educational service district board of directors may provide cooperative and informational services not in conflict with other law that provide for the development and implementation of programs, activities, services, or practices that support the education of preschool through twelfth grade students in the public schools or that support the effective, efficient, or safe management and operation of the school district or districts served by the educational service district;

(8) Adopt such bylaws and rules for its own operation as it deems necessary or appropriate; and

(9) Enter into contracts, including contracts with common and educational service districts and the ~~((school for the deaf))~~ Washington state center for childhood deafness and hearing loss and the school for the blind for the joint financing of cooperative service programs conducted pursuant to RCW 28A.310.180(3), and employ consultants and legal counsel relating to any of the duties, functions, and powers of the educational service districts.

**Sec. 28.** RCW 28A.335.205 and 1997 c 104 s 2 are each amended to read as follows:

Notwithstanding any other provision of law, the office of the superintendent of public instruction, the Washington state school for the blind, the Washington state ~~((school for the deaf))~~ center for childhood deafness and hearing loss, school districts, educational service districts, and all other state or local governmental agencies concerned with education may loan, lease, sell, or transfer assistive devices for the use and benefit of children with disabilities to children with disabilities or their parents or to any other public or private nonprofit agency providing services to or on behalf of individuals with disabilities including but not limited to any agency providing educational, health, or rehabilitation services. The notice requirement in RCW 28A.335.180 does not apply to the loan, lease, sale, or transfer of such assistive devices. The sale or transfer of such devices is authorized under this section regardless of whether or not the devices have been declared surplus. The sale or transfer shall be recorded in an agreement between the parties and based upon the item's depreciated value.

For the purposes of this section, "assistive device" means any item, piece of equipment, or product system, whether acquired commercially off-the-shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of children with disabilities.

For the purpose of implementing this section, each educational agency shall establish and maintain an inventory of assistive technology devices in its possession that exceed one hundred dollars and, for each such device, shall establish a value, which shall be adjusted annually to reflect depreciation.

This section shall not enhance or diminish the obligation of school districts to provide assistive technology to children with disabilities where needed to achieve a free and appropriate public education and equal opportunity in accessing academic and extracurricular activities.

**Sec. 29.** RCW 28A.400.303 and 2007 c 35 s 1 are each amended to read as follows:

(1) School districts, educational service districts, the ~~((state school for the deaf))~~ Washington state center for childhood deafness and hearing loss, the state school for the blind, and their contractors hiring employees who will have regularly scheduled unsupervised access to children shall require a record

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check through the Washington state patrol criminal identification system under RCW 43.43.830 through 43.43.834, 10.97.030, and 10.97.050 and through the federal bureau of investigation before hiring an employee. The record check shall include a fingerprint check using a complete Washington state criminal identification fingerprint card. The requesting entity shall provide a copy of the record report to the applicant. When necessary, applicants may be employed on a conditional basis pending completion of the investigation. If the applicant has had a record check within the previous two years, the district, the ~~((state school for the deaf))~~ Washington state center for childhood deafness and hearing loss, the state school for the blind, or contractor may waive the requirement. Except as provided in subsection (2) of this section, the district, pursuant to chapter 41.59 or 41.56 RCW, the ~~((state school for the deaf))~~ Washington state center for childhood deafness and hearing loss, the state school for the blind, or contractor hiring the employee shall determine who shall pay costs associated with the record check.

(2) Federal bureau of Indian affairs-funded schools may use the process in subsection (1) of this section to perform record checks for their employees and applicants for employment.

**Sec. 30.** RCW 28A.400.305 and 2007 c 35 s 2 are each amended to read as follows:

The superintendent of public instruction shall adopt rules as necessary under chapter 34.05 RCW on record check information. The rules shall include, but not be limited to the following:

(1) Written procedures providing a school district, ~~((state school for the deaf))~~ Washington state center for childhood deafness and hearing loss, state school for the blind, or federal bureau of Indian affairs-funded school employee or applicant for certification or employment access to and review of information obtained based on the record check required under RCW 28A.400.303; and

(2) Written procedures limiting access to the superintendent of public instruction record check database to only those individuals processing record check information at the office of the superintendent of public instruction, the appropriate school district or districts, the ~~((state school for the deaf))~~ Washington state center for childhood deafness and hearing loss, the state school for the blind, the appropriate educational service district or districts, and the appropriate federal bureau of Indian affairs-funded schools.

**Sec. 31.** RCW 28A.600.420 and 1997 c 265 s 5 are each amended to read as follows:

(1) Any elementary or secondary school student who is determined to have carried a firearm onto, or to have possessed a firearm on, public elementary or secondary school premises, public school-provided transportation, or areas of facilities while being used exclusively by public schools, shall be expelled from school for not less than one year under RCW 28A.600.010. The superintendent of the school district, educational service district, ~~((state school for the deaf))~~ or state school for the blind, or the director of the Washington state center for childhood deafness and hearing loss, or the director's designee, may modify the expulsion of a student on a case-by-case basis.

(2) For purposes of this section, "firearm" means a firearm as defined in 18 U.S.C. Sec. 921, and a "firearm" as defined in RCW 9.41.010.

(3) This section shall be construed in a manner consistent with the individuals with disabilities education act, 20 U.S.C. Sec. 1401 et seq.

(4) Nothing in this section prevents a public school district, educational service district, the ~~((state school for the deaf))~~ Washington state center for childhood deafness and hearing loss, or the state school for the blind if it has expelled a student from such student's regular school setting from providing educational services to the student in an alternative setting.

(5) This section does not apply to:

(a) Any student while engaged in military education authorized by school authorities in which rifles are used but not other firearms; or

(b) Any student while involved in a convention, showing, demonstration, lecture, or firearms safety course authorized by school authorities in which the rifles of collectors or instructors are handled or displayed but not other firearms; or

(c) Any student while participating in a rifle competition authorized by school authorities.

(6) A school district may suspend or expel a student for up to one year subject to subsections (1), (3), (4), and (5) of this section, if the student acts with malice as defined under RCW 9A.04.110 and displays an instrument that ~~((appeared [appears]))~~ appears to be a firearm, on public elementary or secondary school premises, public school-provided transportation, or areas of facilities while being used exclusively by public schools.

**Sec. 32.** RCW 41.40.088 and 2000 c 247 s 107 are each amended to read as follows:

(1) A plan 1 member who is employed by a school district or districts, an educational service district, the ~~((state school for the deaf))~~ Washington state center for childhood deafness and hearing loss, the state school for the blind, institutions of higher education, or community colleges:

(a) Shall receive a service credit month for each month of the period from September through August of the following year if he or she is employed in an eligible position, earns compensation earnable for six hundred thirty hours or more during that period, and is employed during nine months of that period, except that a member may not receive credit for any period prior to the member's employment in an eligible position;

(b) If a member in an eligible position does not meet the requirements of (a) of this subsection, the member is entitled to a service credit month for each month of the period he or she earns earnable compensation for seventy or more hours; and the member is entitled to a one-quarter service credit month for those calendar months during which he or she earned compensation for less than seventy hours.

(2) Except for any period prior to the member's employment in an eligible position, a plan 2 or plan 3 member who is employed by a school district or districts, an educational service district, the state school for the blind, the ~~((state school for the deaf))~~ Washington state center for childhood deafness and hearing loss, institutions of higher education, or community colleges:

(a) Shall receive a service credit month for each month of the period from September through August of the following year if he or she is employed in an eligible position, earns compensation earnable for eight hundred ten hours or more during that period, and is employed during nine months of that period;

(b) If a member in an eligible position for each month of the period from September through August of the following year does not meet the hours requirements of (a) of this subsection, the member is entitled to one-half service credit month for each month of the period if he or she earns earnable compensation for at least six hundred thirty hours but less than eight hundred ten

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hours during that period, and is employed nine months of that period;

(c) In all other instances, a member in an eligible position is entitled to service credit months as follows:

(i) One service credit month for each month in which compensation is earned for ninety or more hours;

(ii) One-half service credit month for each month in which compensation is earned for at least seventy hours but less than ninety hours; and

(iii) One-quarter service credit month for each month in which compensation is earned for less than seventy hours;

(d) After August 31, 2000, school districts and educational service districts will no longer be employers for the public employees' retirement system plan 2 or plan 3.

(3) The department shall adopt rules implementing this section.

**Sec. 33.** RCW 70.198.020 and 2004 c 47 s 2 are each amended to read as follows:

(1) There is established an advisory council in the department of social and health services for the purpose of advancing the development of a comprehensive and effective statewide system to provide prompt and effective early interventions for children in the state who are deaf or hard of hearing and their families.

(2) Members of the advisory council shall have training, experience, or interest in hearing loss in children. Membership shall include, but not be limited to, the following: Pediatricians; audiologists; teachers of the deaf and hard of hearing; parents of children who are deaf or hard of hearing; a representative from the Washington state (~~school for the deaf~~) center for childhood deafness and hearing loss; and representatives of the infant toddler early intervention program in the department of social and health services, the department of health, and the office of the superintendent of public instruction.

**NEW SECTION. Sec. 34.** (1) The board of trustees and the director of the center for childhood deafness and hearing loss shall implement a process for gathering information from stakeholders to examine service availability and gaps and to identify service delivery options, resources, and policy changes for the implementation and operation of two demonstration sites for regional programs serving children who are deaf or hard of hearing. One demonstration site shall be in an educational service district in eastern Washington. Information may be gathered through meetings conducted in educational service district regions and through other appropriate means, including the P-20 network and internet technologies. Stakeholders from whom information shall be solicited include, but are not limited to:

(a) The office of the superintendent of public instruction, including the Washington sensory disabilities services office;

(b) The office of deaf and hard of hearing services in the department of social and health services;

(c) Educational service district superintendents and school district superintendents;

(d) Parents of school-age children who are deaf or hard of hearing, including organizations advocating for the educational interests of all children who are deaf or hard of hearing without regard to any specific communication modality;

(e) Students who are deaf or hard of hearing;

(f) Adults who are deaf or hard of hearing;

(g) Nongovernmental entities providing educational services in the following communication modalities: Oral communication, manual communication, and total communication;

(h) The department of health; and

(i) The department of early learning.

(2) Based on the information gathered from stakeholders, the board and the director of the center for childhood deafness and hearing loss shall develop a structure and plan for implementing regional education programs at two demonstration sites that:

(a) Are established within an educational service district and managed through shared governance by the school districts;

(b) Collaborate and partner with, enhance, and avoid duplication of existing and available services and programs, both public and private;

(c) Provide services at one or more central locations in the education service districts;

(d) Provide services to students in their resident districts, including students who are deaf or hard of hearing who may not qualify for special education services;

(e) Include educational and transportation services for children, consultation for teachers and staff, and outreach to families; and

(f) Support communication-rich learning environments and instruction of students in the full spectrum of communication modalities by qualified professionals, including American Sign Language, auditory oral education, total communication, and signed exact English.

(3) By December 1, 2010, the board and the director shall brief the legislature and the governor regarding the progress of implementing and operating the demonstration sites.

(4) This section expires January 1, 2011.

**NEW SECTION. Sec. 35.** If specific funding for the purposes of section 34 of this act, referencing section 34 of this act by bill or chapter number and section number, is not provided by June 30, 2009, in the omnibus appropriations act, section 34 of this act is null and void.

**NEW SECTION. Sec. 36.** RCW 72.40.023 (Superintendent of the state school for the deaf--Powers and duties) and 2002 c 209 s 3 are each repealed."

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

#### MOTION

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

On page 27, beginning on line 22 of the amendment, after "governor" strike all material through "operating" on line 23 and insert "with a recommendation for the location, structure, and governance of"

On page 27, beginning on line 25 of the amendment, strike all of section 35

Renumber the remaining section consecutively.

The President declared the question before the Senate to be the adoption of the amendment by Senator Pridemore on page 27, line 22 to the committee striking amendment to Engrossed Second Substitute House Bill No. 1879.

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Early Learning & K-12 Education as amended to Engrossed Second Substitute House Bill No. 1879.

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



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MOTION

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

On page 1, line 2 of the title, after "impaired;" strike the remainder of the title and insert "amending RCW 72.40.010, 72.40.019, 72.40.024, 72.40.028, 72.40.120, 72.40.200, 72.40.210, 72.40.031, 72.42.010, 72.42.015, 72.42.016, 72.42.021, 72.42.041, 72.40.070, 72.40.220, 72.40.250, 72.40.280, 72.42.060, 26.44.210, 28A.155.160, 28A.310.010, 28A.310.180, 28A.310.200, 28A.335.205, 28A.400.303, 28A.400.305, 28A.600.420, 41.40.088, and 70.198.020; adding new sections to chapter 72.42 RCW; creating new sections; repealing RCW 72.40.023; and providing an expiration date."

MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed Second Substitute House Bill No. 1879 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1879 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1879 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Berkey, Brown and Rockefeller

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1879 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. 1717, by Representatives Clibborn, Armstrong, Wood, Warnick and Klippert

Extending the time period for the department of transportation to enter into an agreement for a rail line over the Milwaukee Road corridor.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 79A.05.115 and 2006 c 160 s 1 are each amended to read as follows:

(1) The commission shall develop and maintain a cross-state trail facility with appropriate appurtenances.

(2) This section expires July 1, ~~((2009))~~ 2019, ~~((#))~~ unless the department of transportation ~~((does not))~~ enters into a franchise agreement for a rail line over any of the portions of the Milwaukee Road corridor between Ellensburg and ~~((Lind))~~ Marengo by July 1, ~~((2009))~~ 2019.

Sec. 2. RCW 79A.05.120 and 2006 c 160 s 2 are each amended to read as follows:

(1) To facilitate completion of a cross-state trail under the management of the parks and recreation commission, management and control of lands known as the Milwaukee Road corridor shall be transferred between state agencies as follows on the date a franchise agreement is entered into for a rail line over portions of the Milwaukee Road corridor:

(a) Portions owned by the state between Ellensburg and the Columbia river that are managed by the parks and recreation commission are transferred to the department of transportation;

(b) Portions owned by the state between the west side of the Columbia river and Royal City Junction and between Warden and Lind that are managed by the department of natural resources are transferred to the department of transportation; ~~((and))~~

(c) Portions owned by the state between Lind and the Idaho border that are managed by the department of natural resources are transferred to the parks and recreation commission as of June 7, 2006; and

(d) Portions owned by the state between Lind and Marengo are transferred to the department of transportation.

(2) The department of natural resources may, by mutual agreement with the parks and recreation commission, transfer management authority over portions of the Milwaukee Road corridor to the state parks and recreation commission, at any time prior to the department of transportation entering into a franchise agreement.

(3) This section expires July 1, ~~((2009))~~ 2019, and no transfers shall occur ~~((#))~~ unless the department of transportation ~~((does not))~~ enters into a franchise agreement for a rail line over any of the portions of the Milwaukee Road corridor between Ellensburg and ~~((Lind))~~ Marengo by July 1, ~~((2009))~~ 2019.

Sec. 3. RCW 79A.05.125 and 2006 c 160 s 3 are each amended to read as follows:

(1) The department of transportation shall negotiate ~~((a))~~ one or more franchises with ~~((a))~~ rail carriers to establish and maintain a rail line over portions of the Milwaukee Road corridor owned by the state between Ellensburg and ~~((Lind))~~ Marengo. The department of transportation may negotiate such a franchise with any qualified rail carrier. Criteria for negotiating the franchise and establishing the right-of-way include:

(a) Assurances that resources from the franchise will be sufficient to compensate the state for use of the property, including completion of a cross-state trail between Easton and the Idaho border;

(b) Types of payment for use of the franchise, including payment for the use of federally granted trust lands in the transportation corridor;

(c) Standards for maintenance of the line;

(d) Provisions ensuring that both the conventional and intermodal rail service needs of local shippers are met. Such accommodations may comprise agreements with the franchisee to offer or maintain adequate service or to provide service by other carriers at commercially reasonable rates;

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(e) Provisions requiring the franchisee, upon reasonable request of any other rail operator, to provide rail service and interchange freight over what is commonly known as the Stampede Pass rail line from Cle Elum to Auburn at commercially reasonable rates;

(f) If any part of the franchise agreement is invalidated by actions or rulings of the federal surface transportation board or a court of competent jurisdiction, the remaining portions of the franchise agreement are not affected;

(g) Compliance with environmental standards; and

(h) Provisions for insurance and the coverage of liability.

(2) The franchise may provide for periodic review of financial arrangements under the franchise.

(3) The department of transportation, in consultation with the parks and recreation commission and the senate and house transportation committees, shall negotiate the terms of the franchise, and shall present the agreement to the parks and recreation commission for approval of as to terms and provisions affecting the cross-state trail or affecting the commission.

(4) This section expires July 1, ~~((2009))~~ 2019, ~~((#))~~ unless the department of transportation ~~((does not))~~ enters into a franchise agreement for a rail line over any of the portions of the Milwaukee Road corridor between Ellensburg and Marengo by July 1, ~~((2009))~~ 2019.

**Sec. 4.** RCW 79A.05.130 and 2006 c 160 s 4 are each amended to read as follows:

(1) The cross-state trail account is created in the custody of the state treasurer. Eleven million five hundred thousand dollars is provided to the state parks and recreation commission to acquire, construct, and maintain a cross-state trail. This amount may consist of: (a) Legislative appropriations intended for trail development; (b) payments for the purchase of federally granted trust lands; and (c) franchise fees derived from use of the rail corridor. The legislature intends that any amounts provided from the transportation fund are to be repaid to the transportation fund from franchise fees.

(2) The department shall deposit franchise fees from use of the rail corridor according to the following priority: (a) To the department of transportation for actual costs incurred in administering the franchise; (b) to the department of natural resources as compensation for use of federally granted trust lands in the rail corridor; (c) to the transportation fund to reimburse any amounts transferred or appropriated from that fund by the legislature for trail development; (d) to the cross-state trail account, not to exceed eleven million five hundred thousand dollars, provided that this amount shall be reduced proportionate with any funds transferred or appropriated by the 1996 legislature or paid from franchise fees for the purchase of federally granted trust lands or for trail development; and (e) the remainder to the essential rail assistance account, created under RCW 47.76.250. Expenditures from the cross-state trail account may be used only for the acquisition, development, operation, and maintenance of the cross-state trail. Only the director of the state parks and recreation commission or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

(3) The commission may acquire land from willing sellers for the cross-state trail, but not by eminent domain.

(4) The commission shall adopt rules describing the cross-state trail.

(5) This section expires July 1, ~~((2009))~~ 2019, ~~((#))~~ unless the department of transportation ~~((does not))~~ enters into a franchise agreement for a rail line over any of the portions of the

Milwaukee Road corridor between Ellensburg and Marengo by July 1, ~~((2009))~~ 2019.

**NEW SECTION. Sec. 5.** 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 June 30, 2009."

Senator Jarrett 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. 1717.

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

#### MOTION

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

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "a rail line over the Milwaukee Road corridor; amending RCW 79A.05.115, 79A.05.120, 79A.05.125, and 79A.05.130; providing an effective date; providing contingent expiration dates; and declaring an emergency."

#### MOTION

On motion of Senator Jarrett, the rules were suspended, House Bill No. 1717 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

#### MOTION

On motion of Senator Marr, Senator Pridemore was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 1717 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1717 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Berkey, Brown, Pridemore and Rockefeller

HOUSE BILL NO. 1717 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

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HOUSE BILL NO. 1000, by Representatives Halder, Klippert and Wood

Extending state route number 397 to Interstate 82.

The measure was read the second time.

#### MOTION

On motion of Senator Jarrett, the rules were suspended, House Bill No. 1000 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Jarrett spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1000.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1000 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Berkey, Brown, Pridemore and Rockefeller

HOUSE BILL NO. 1000, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Brandland, Senators Hewitt and Holmquist were excused.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1583, by House Committee on Local Government & Housing (originally sponsored by Representatives Alexander, Simpson, Angel, Miloscia, Short and Nelson)

Modifying provisions relating to county auditors.

The measure was read the second time.

#### MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 36.17.045 and 1963 c 164 s 3 are each amended to read as follows:

Employees of the counties shall have the right to voluntarily authorize the monthly deduction of their pledges to the United Good Neighbor or its successor, monthly payment to a credit ~~(unit)~~ union as defined in RCW 31.12.005, and monthly dues to a labor union, from their salaries or wages. When such

written authorization is received by the county auditor, he or she shall make such monthly deduction.

**Sec. 2.** RCW 36.17.050 and 1999 c 71 s 3 are each amended to read as follows:

~~((The auditor shall not draw his warrant for the salary of any officer until the latter shall have first filed his duplicate receipt with the auditor, properly signed by the treasurer, showing he has made the last required monthly statement and settlement.))~~ If the superior court issues a declaratory judgment under RCW 36.16.125 finding that a county officer has abandoned his or her duties, the county officer may not be paid a salary.

**Sec. 3.** RCW 36.22.010 and 1995 c 194 s 1 are each amended to read as follows:

The county auditor:

(1) Shall be recorder of deeds and other instruments in writing which by law are to be filed and recorded in and for the county for which he or she is elected;

(2) Shall keep an account current with the county treasurer, charge all money received as shown by receipts issued and credit all disbursements paid out according to the record of settlement of the treasurer with the legislative authority;

(3) Shall make out and transmit to the state auditor a ~~((complete))~~ statement of the state fund account with the county ~~((for the past fiscal year certified by his or her certificate and seal, immediately after the completion of the annual settlement of the county treasurer with the legislative authority))~~ in accordance with standards developed by the state auditor. The statement must be available to the public;

(4) Shall make available a complete exhibit of the prior-year finances of the county including, but not limited to, a statement of financial condition and financial operation in accordance with standards developed by the state auditor. This exhibit shall be made available after the financial records are closed for the prior year;

(5) Shall make out a register of all warrants legally authorized and directed to be issued by the legislative body at any regular or special meeting. The auditor shall make the data available to the county treasurer. The auditor shall retain the original of the register of warrants for future reference;

(6) As clerk of the board of county commissioners, shall:

Record all of the proceedings of the legislative authority;

Make full entries of all of their resolutions and decisions on all questions concerning the raising of money for and the allowance of accounts against the county;

Record the vote of each member on any question upon which there is a division or at the request of any member present;

Sign all orders made and warrants issued by order of the legislative authority for the payment of money;

Record the reports of the county treasurer of the receipts and disbursements of the county;

Preserve and file all accounts acted upon by the legislative authority;

Preserve and file all petitions and applications for franchises and record the action of the legislative authority thereon;

Record all orders levying taxes;

Perform all other duties required by any rule or order of the legislative authority.

**Sec. 4.** RCW 36.22.090 and 1975 c 43 s 31 are each amended to read as follows:

All warrants for the payment of claims against diking, ditch, drainage and irrigation districts and school districts of the second class, who do not issue their own warrants, as well as political subdivisions within the county for which no other provision is made by law, shall be drawn and issued by the

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county auditor of the county wherein such subdivision is located, upon ~~((vouchers properly approved))~~ proper approval by the governing body thereof.

**Sec. 5.** RCW 36.22.170 and 2005 c 442 s 1 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection, a surcharge of five dollars per instrument shall be charged by the county auditor for each document recorded, which will be in addition to any other charge authorized by law. One dollar of the surcharge shall be ~~((deposited in the county general fund to be))~~ used at the discretion of the county commissioners to promote historical preservation or historical programs, which may include preservation of historic documents.

(b) A surcharge of two dollars per instrument shall be charged by the county auditor for each document presented for recording by the employment security department, which will be in addition to any other charge authorized by law.

(2) Of the remaining revenue generated through the surcharges under subsection (1) of this section:

(a) Fifty percent shall be transmitted monthly to the state treasurer who shall distribute such funds to each county treasurer within the state in July of each year in accordance with the formula described in RCW 36.22.190. The county treasurer shall place the funds received in a special account titled the auditor's centennial document preservation and modernization account to be used solely for ongoing preservation of historical documents of all county offices and departments and shall not be added to the county current expense fund; and

(b) Fifty percent shall be retained by the county and deposited in the auditor's operation and maintenance fund for ongoing preservation of historical documents of all county offices and departments.

(3) The centennial document preservation and modernization account is hereby created in the custody of the state treasurer and shall be classified as a treasury trust account. State distributions from the centennial document preservation and modernization account shall be made without appropriation.

**Sec. 6.** RCW 36.40.010 and 1963 c 4 s 36.40.010 are each amended to read as follows:

On or before the second Monday in July of each year, the county auditor or chief financial officer designated in a charter county shall notify in writing each county official, elective or appointive, in charge of an office, department, service, or institution of the county, to file with him or her on or before the second Monday in August thereafter detailed and itemized estimates, both of the probable revenues from sources other than taxation, and of all expenditures required by such office, department, service, or institution for the ensuing fiscal year.

**Sec. 7.** RCW 36.40.030 and 1995 c 301 s 62 are each amended to read as follows:

The estimates required in RCW 36.40.010 and 36.40.020 shall be submitted on forms provided by the county auditor or chief financial officer designated in a charter county and classified according to the classification established by the state auditor. The county auditor or chief financial officer designated in a charter county shall provide such forms. He or she shall also prepare the estimates for interest and debt redemption requirements and any other estimates the preparation of which properly falls within the duties of his or her office.

Each such official shall file his or her estimates within the time and in the manner provided in the notice and form and the county auditor or chief financial officer ~~((shall))~~ designated in a charter county may deduct and withhold as a penalty from the salary of each official failing or refusing to file such estimates as herein provided, the sum of ~~((ten))~~ fifty dollars for each day of

delay: PROVIDED, That the total penalty against any one official shall not exceed two hundred fifty dollars in any one year.

In the absence or disability of any official the duties required herein shall devolve upon the official or employee in charge of the office, department, service, or institution for the time being. The notice shall contain a copy of this penalty clause.

**Sec. 8.** RCW 36.40.040 and 1995 c 301 s 63 and 1995 c 194 s 7 are each reenacted and amended to read as follows:

Upon receipt of the estimates the county auditor or chief financial officer designated in a charter county shall prepare the county budget which shall set forth the complete financial program of the county for the ensuing fiscal year, showing the expenditure program and the sources of revenue by which it is to be financed.

The revenue section shall set forth the estimated receipts from sources other than taxation for each office, department, service, or institution for the ensuing fiscal year, the actual receipts for the first six months of the current fiscal year and the actual receipts for the last completed fiscal year, the estimated surplus at the close of the current fiscal year and the amount proposed to be raised by taxation.

The expenditure section shall set forth in comparative and tabular form by offices, departments, services, and institutions the estimated expenditures for the ensuing fiscal year, the appropriations for the current fiscal year, the actual expenditures for the first six months of the current fiscal year including all contracts or other obligations against current appropriations, and the actual expenditures for the last completed fiscal year.

All estimates of receipts and expenditures for the ensuing year shall be fully detailed in the annual budget and shall be classified and segregated according to a standard classification of accounts to be adopted and prescribed by the state auditor after consultation with the Washington state association of counties and the Washington state association of county officials.

The county auditor or chief financial officer designated in a charter county shall set forth separately in the annual budget to be submitted to the county legislative authority the total amount of emergency warrants issued during the preceding fiscal year, together with a statement showing the amount issued for each emergency, and the legislative authority shall include in the annual tax levy, a levy sufficient to raise an amount equal to the total of such warrants: PROVIDED, That the legislative authority may fund the warrants or any part thereof into bonds instead of including them in the budget levy.

**Sec. 9.** RCW 36.40.050 and 1963 c 4 s 36.40.050 are each amended to read as follows:

The budget shall be submitted by the auditor or chief financial officer designated in a charter county to the board of county commissioners on or before the first Tuesday in September of each year. The board shall thereupon consider the same in detail, making any revisions or additions it deems advisable.

**Sec. 10.** RCW 36.40.130 and 1963 c 4 s 36.40.130 are each amended to read as follows:

Expenditures made, liabilities incurred, or warrants issued in excess of any of the detailed budget appropriations or as revised by transfer as in RCW 36.40.100~~((-36.40.110))~~ or 36.40.120 provided shall not be a liability of the county, but the official making or incurring such expenditure or issuing such warrant shall be liable therefor personally and upon his or her official bond. The county auditor shall issue no warrant and the county commissioners shall approve no claim for any expenditure in

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excess of the detailed budget appropriations or as revised under the provisions of RCW 36.40.100 through 36.40.130, except upon an order of a court of competent jurisdiction, or for emergencies as hereinafter provided. ~~((Any county commissioner, or county auditor, approving any claim or issuing any warrant in excess of any such budget appropriation except as herein provided shall forfeit to the county fourfold the amount of such claim or warrant which shall be recovered by action against such county commissioner or auditor, or all of them, and the several sureties on their official bonds.))~~

**Sec. 11.** RCW 36.40.210 and 1963 c 4 s 36.40.210 are each amended to read as follows:

On or before the twenty-fifth day of each month the auditor shall submit or make available to the board of county commissioners a report showing the expenditures and liabilities against each separate budget appropriation incurred during the preceding calendar month and like information for the whole of the current fiscal year to the first day of said month, together with the unexpended and unencumbered balance of each appropriation. He or she shall also set forth the receipts from taxes and from sources other than taxation for the same periods.

**Sec. 12.** RCW 36.96.020 and 1979 ex.s. c 5 s 2 are each amended to read as follows:

On or before June 1st of 1980, and on or before June 1st of every year thereafter, each county auditor shall search available records and notify the county legislative authority if any special purpose districts located wholly or partially within the county appear to be inactive. ~~((Each county auditor shall also provide in the notifications made in 1982 and thereafter a list of all special purpose districts located wholly or partially within the county which, for three consecutive years before the notification, have failed to file statements with the county auditor as required in RCW 36.96.090.))~~ If the territory of any special purpose district is located within more than one county, the legislative authorities of all other counties within whose boundaries such a special purpose district lies shall also be notified by the county auditor. However, the authority to dissolve such a special purpose district as provided by this chapter shall rest solely with the legislative authority of the county which contains the greatest geographic portion of such special purpose district.

**Sec. 13.** RCW 36.96.090 and 1979 ex.s. c 5 s 9 are each amended to read as follows:

~~((1) Every special purpose district shall file a statement with the auditor of each county in which it lies on or before December 31st of every year, beginning in the year 1979. The initial statement filed by each special purpose district shall contain))~~ For every newly created special purpose district, the auditor of each county in which the special purpose district is located shall provide the state auditor with the following information:

~~((a))~~ (1) The name of the special purpose district and a general description of its location ~~((and geographical area within the county and within any other county;~~

~~((b) The statutes under which the special purpose district operates));~~

~~((c))~~ (2) The name, address, and telephone number ~~((and remaining term of office))~~ of each member of its governing authority; and

~~((d))~~ (3) The functions that the special purpose district is then presently performing and the purposes for which it was created.

~~((Subsequent annual statements need only identify the special purpose district and any of the above detailed information that has changed in the last year.~~

~~((2) Each county auditor, on or before January 31, 1980, and on or before January 31st each year thereafter, shall forward to the state auditor a summation of the information contained in the statements required to be filed in subsection (1) of this section together with information of each special purpose district located wholly or partially within the county that has been dissolved during the preceding year.))~~

**Sec. 14.** RCW 43.09.280 and 1995 c 301 s 18 are each amended to read as follows:

The expense of auditing public accounts shall be borne by each entity subject to such audit for the auditing of all accounts under its jurisdiction and the state auditor shall certify the expense of such audit to the fiscal or warrant-issuing officer of such entity, who shall immediately make payment to the state auditor. If the expense as certified is not paid by any local government within thirty days from the date of certification, the state auditor may certify the expense to the auditor of the county in which the local government is situated, who shall promptly issue his or her warrant on the county treasurer payable out of the current expense fund of the county, which fund, except as to auditing the financial affairs and making inspection and examination of the county, shall be reimbursed by the county auditor or chief financial officer designated in a charter county out of the money due the local government at the next monthly settlement of the collection of taxes and shall be transferred to the current expense fund.

NEW SECTION. **Sec. 15.** The following acts or parts of acts are each repealed:

(1) RCW 28A.350.010 (Registering warrants--All districts) and 1990 c 33 s 373, 1975 c 43 s 27, 1973 c 111 s 2, & 1969 ex.s. c 223 s 28A.66.010;

(2) RCW 28A.350.020 (Registering warrants--Second-class districts) and 1990 c 33 s 374, 1975 c 43 s 28, & 1969 ex.s. c 223 s 28A.66.020;

(3) RCW 28A.350.030 (Auditing accounts--All districts) and 1969 ex.s. c 223 s 28A.66.030;

(4) RCW 28A.350.040 (Auditor to draw and issue warrants--Second-class districts) and 1990 c 33 s 375, 1975 c 43 s 29, 1973 c 111 s 3, & 1969 ex.s. c 223 s 28A.66.040;

(5) RCW 28A.350.050 (Teacher must qualify before warrant drawn and issued or registered--All districts) and 1973 c 72 s 1, 1971 c 48 s 45, & 1969 ex.s. c 223 s 28A.66.050;

(6) RCW 28A.350.060 (Liability of auditor for warrants exceeding budget--All districts) and 1975-'76 2nd ex.s. c 118 s 31 & 1969 ex.s. c 223 s 28A.66.070;

(7) RCW 28A.350.070 (Orders for warrants not transferable--Second-class districts) and 1975 c 43 s 30 & 1969 ex.s. c 223 s 28A.66.080;

(8) RCW 36.18.110 (Monthly statement to county auditor) and 1985 c 44 s 3, 1984 c 128 s 3, & 1963 c 4 s 36.18.110;

(9) RCW 36.18.120 (Statements to be checked) and 1985 c 44 s 4, 1984 c 128 s 4, & 1963 c 4 s 36.18.120; and

(10) RCW 36.18.130 (Errors or irregularities) and 1963 c 4 s 36.18.130."

Senator Fairley 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 & Elections to Substitute House Bill No. 1583.

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

## MOTION

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

On page 1, line 1 of the title, after "auditors;" strike the remainder of the title and insert "amending RCW 36.17.045, 36.17.050, 36.22.010, 36.22.090, 36.22.170, 36.40.010, 36.40.030, 36.40.050, 36.40.130, 36.40.210, 36.96.020, 36.96.090, and 43.09.280; reenacting and amending RCW 36.40.040; and repealing RCW 28A.350.010, 28A.350.020, 28A.350.030, 28A.350.040, 28A.350.050, 28A.350.060, 28A.350.070, 36.18.110, 36.18.120, and 36.18.130."

## MOTION

On motion of Senator Fairley, the rules were suspended, Substitute House Bill No. 1583 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fairley spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1583 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1583 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

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

Excused: Senators Berkey, Brown, Hewitt, Holmquist and Rockefeller

SUBSTITUTE HOUSE BILL NO. 1583 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 2:45 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 5:01 p.m. by President Owen.

## SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1951, by House Committee on General Government Appropriations (originally sponsored by Representatives Finn, Short, Takko, Walsh, Blake, Johnson, McCune, Pearson, Williams and Van De Wege)

Regarding the operation and management of salmonid hatcheries.

The measure was read the second time.

## MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds: (1) The full utilization of state salmonid hatcheries is vital to the recreational and commercial fisheries and related economic development and employment; and (2) effective measures are necessary to maintain all hatchery operations that are consistent with conservation of wild salmon populations and support sustainable fisheries.

NEW SECTION. Sec. 2. A new section is added to chapter 77.95 RCW to read as follows:

(1) The department shall establish a program that utilizes department-partner agreements for the resumption or continued operation and management of state-owned salmonid hatcheries now closed or scheduled for closure during the 2009-2011 biennium. To implement the program, the department shall accept and review applications to determine the appropriateness of the partner to manage and operate selected salmonid hatcheries. The department shall accelerate the application process relating to any hatchery currently in operation to avoid cessation of ongoing salmon production.

(2)(a) To select a partner, the department shall develop and apply criteria identifying the appropriateness of a potential partner. The criteria must seek to ensure that the partner has a long-range business plan, which may include the sale of hatchery surplus salmon, including eggs and carcasses, to ensure the long-range future solvency of the partnership.

(b) Partners under this section must be:

(i) Qualified under section 501(c)(3) of the internal revenue code;

(ii) A for-profit private entity; or

(iii) A federally recognized tribe.

(3) The department shall place a higher priority on applications from partners that provide for the maximum resumption or continuation of existing hatchery production in a manner consistent with the mandate contained in RCW 77.04.012 to maintain the economic well-being and stability of the fishing industry.

(4) Agreements entered into with partners under this section must be consistent with existing state laws, agency rules, collective bargaining agreements, hatchery management policy involving species listed under the federal endangered species act, or, in the case of a tribal partner, any applicable tribal hatchery management policy or recreational and commercial harvest policy. Agreements under this section must also require that partners conducting hatchery operations maintain staff with comparable qualifications to those identified in the class specifications for the department's fish hatchery personnel.

(5) All partnership agreements entered into under this section must contain a provision that requires the partner to hold harmless the department and the state for any civil liability arising from the partner's participation in the agreement or activities at the subject hatchery or hatcheries.

(6) All partnership agreements entered into under this section must identify any maintenance or improvements to be made to the hatchery facility, and the source of funding for such maintenance or improvements. If funding for the maintenance or improvements is to come from state funds or revenue sources previously received by the department, the work must be

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performed either by employees in the classified service or in compliance with the contracting procedures set forth in RCW 41.06.142.

**NEW SECTION. Sec. 3.** A new section is added to chapter 77.95 RCW to read as follows:

The powers and authority conferred by this chapter must be construed as in addition and supplemental to powers or authority conferred by any other law and nothing contained in this chapter may be construed as limiting any other powers or authority of the department.

**Sec. 4.** RCW 77.95.090 and 2000 c 107 s 106 are each amended to read as follows:

The dedicated regional fisheries enhancement group account is created in the custody of the state treasurer. Only the commission or the commission's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

A portion of each recreational fishing license fee shall be used as provided in RCW 77.32.440. A surcharge of one hundred dollars shall be collected on each commercial salmon fishery license, each salmon delivery license, and each salmon charter license sold in the state. All receipts shall be placed in the regional fisheries enhancement group account and shall be used exclusively for regional fisheries enhancement group projects for the purposes of RCW 77.95.110. Except as provided in section 2 of this act, funds from the regional fisheries enhancement group account shall not serve as replacement funding for department operated salmon projects that exist on January 1, 1991.

All revenue from the department's sale of salmon carcasses and eggs that return to group facilities shall be deposited in the regional fisheries enhancement group account for use by the regional fisheries enhancement group that produced the surplus. The commission shall adopt rules to implement this section pursuant to chapter 34.05 RCW."

Senator Jacobsen 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 Natural Resources, Ocean & Recreation to Second Substitute House Bill No. 1951.

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

MOTION

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

On page 1, line 4 of the title, after "biennium;" strike the remainder of the title and insert "amending RCW 77.95.090; adding new sections to chapter 77.95 RCW; and creating a new section."

MOTION

On motion of Senator Jacobsen, the rules were suspended, Second Substitute House Bill No. 1951 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

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

MOTION

On motion of Senator Brandland, Senator McCaslin was excused.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1951 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1951 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 1; Absent, 1; Excused, 3.

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

Voting nay: Senator Holmquist

Absent: Senator Haugen

Excused: Senators Berkey, Brown and Hargrove

SECOND SUBSTITUTE HOUSE BILL NO. 1951 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. 1288, by Representatives Upthegrove, McCune, Simpson, Herrera, Newhouse, Armstrong, Roach, Quall, Orwall, Pettigrew, Bailey, Shea, Smith, Orcutt, Sullivan, Eddy, Johnson, Nelson, Ormsby, Kretz and Kristiansen

Exempting the annual parental declaration of intent to home school from the public disclosure act.

The measure was read the second time.

MOTION

On motion of Senator McAuliffe, the rules were suspended, House Bill No. 1288 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1288.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1288 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

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

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Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

REPLY BY THE PRESIDENT

Absent: Senator Haugen

Excused: Senators Berkey, Brown and Hargrove

HOUSE BILL NO. 1288, 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. 1110, by House Committee on Education (originally sponsored by Representatives Sullivan, Lias, Upthegrove, Orwall and Simpson)

Prohibiting advertising and marketing to students receiving home-based instruction. Revised for 1st Substitute: Prohibiting advertising and marketing to students receiving home-based instruction and their parents.

The measure was read the second time.

## MOTION

On motion of Senator McAuliffe, the rules were suspended, Substitute House Bill No. 1110 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

## MOTION

On motion of Senator Hatfield, Senator Haugen was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1110.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1110 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Berkey, Brown, Hargrove and Haugen

SUBSTITUTE HOUSE BILL NO. 1110, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## PERSONAL PRIVILEGE

Senator Becker: "Thank you Mr. President. As each and every one of you have probably heard in the last week, on last Saturday we had a terrible event take place in Graham and that happens to be my district and we had a thirty-four year old father shoot all five of his children. My heart goes out to that family and tonight is the memorial service at the Middle School in Orting where they went to school. Mr. President, may I read?"

President Owen: "Senator Becker."

## PERSONAL PRIVILEGE

Senator Becker: "Thank you Mr. President. 'The youngest boy, James, was described as being full of life and full of spirit and apparently was a hand full. Like most seven year old boys he liked to play video games and fish for trout in local lakes and streams. Heather was the nine year old. Neighbors say she was a chatter box who loved to read frequently asking everybody in school if she could read to them. Twelve year old Samantha was the middle child, she had long blond hair and while she kept mostly to herself she did have a few friends and got along well with others. Samantha was the only one of her siblings who had to fight her father before she was murdered. The other four children were shot in their own beds. Samantha's older sister Jamie apparently enjoyed being the social and, being a social person and talking to people. At fourteen she was becoming quite the volley ball player. Maxine was the oldest daughter. The sixteen year old had just learned how to drive and was enjoying cruising around in the old Ford Mustang her parents bought for her. She helped her mother take care of the kids and liked spending time at the Orting Library along with her siblings.' I'd like to see if it's possible if we could take a moment of silence to honor these children."

## MOMENT OF SILENCE

The Senate observed a moment of silence in honor of the five Harrison children that were killed in Graham.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1319, by House Committee on Education (originally sponsored by Representatives Sullivan, Anderson, Miloscia, Dammeier, Hunt, Armstrong, Priest, Orwall, Morrell, Kenney, Simpson and Kelley)

Prohibiting school district employees from using public assets for private gain.

The measure was read the second time.

## MOTION

On motion of Senator McAuliffe, the rules were suspended, Substitute House Bill No. 1319 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1319.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1319 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe,



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McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Berkey, Brown, Hargrove and Haugen

SUBSTITUTE HOUSE BILL NO. 1319, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL NO. 5151,  
 SENATE BILL NO. 5413,  
 SUBSTITUTE SENATE BILL NO. 5469,  
 SENATE BILL NO. 5492,  
 SENATE BILL NO. 5511,  
 SENATE BILL NO. 5542,  
 SUBSTITUTE SENATE BILL NO. 5551,  
 SENATE BILL NO. 5562,  
 ENGROSSED SENATE BILL NO. 5581,  
 SUBSTITUTE SENATE BILL NO. 5677,  
 SUBSTITUTE SENATE BILL NO. 5705,  
 SUBSTITUTE SENATE BILL NO. 5839,  
 SENATE BILL NO. 5952,  
 SENATE BILL NO. 5989,  
 SUBSTITUTE SENATE BILL NO. 6019

SECOND READING

HOUSE BILL NO. 1675, by Representatives Sells, Anderson, Wallace, Upthegrove and Kenney

Changing the work experience provisions of the alternative route partnership grant program.

The measure was read the second time.

MOTION

On motion of Senator McAuliffe, the rules were suspended, House Bill No. 1675 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1675.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1675 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Berkey, Brown, Hargrove and Haugen

HOUSE BILL NO. 1675, 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. 1758, by House Committee on Education (originally sponsored by Representatives Quall, Hope, Wallace, Sullivan, Goodman, Kagi, Santos, Morrell, Hasegawa and Ormsby)

Expanding options for students to earn high school diplomas.

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 has previously affirmed the value of career and technical education, particularly in programs that lead to nationally recognized certification. These programs provide students with the knowledge and skills to become responsible citizens and contribute to their own economic well-being and that of their families and communities, which is the goal of education in the public schools. The legislature has also previously affirmed the value of dual enrollment in college and high school programs that can lead to both an associate degree and a high school diploma. Therefore, the legislature intends to maximize students' options and choices for completing high school by awarding diplomas to students who complete these valuable postsecondary programs.

Sec. 2. RCW 28B.50.535 and 2007 c 355 s 2 are each amended to read as follows:

A community or technical college may issue a high school diploma or certificate as provided under this section.

(1) An individual who satisfactorily meets the requirements for high school completion shall be awarded a diploma from the college, subject to rules adopted by the superintendent of public instruction and the state board of education.

(2) An individual enrolled through the option established under RCW 28A.600.310 through 28A.600.400 who satisfactorily completes an associate degree, including an associate of arts degree, associate of science degree, associate of technology degree, or associate in applied science degree, shall be awarded a diploma from the college.

Sec. 3. RCW 28A.225.290 and 1990 1st ex.s. c 9 s 207 are each amended to read as follows:

(1) The superintendent of public instruction shall prepare and annually distribute an information booklet outlining parents' and guardians' enrollment options for their children.

(2) ((Before the 1991-92 school year;)) The booklet shall be distributed to all school districts by the office of the superintendent of public instruction and shall be posted on the web site of the office of the superintendent of public instruction. School districts shall have a copy of the information booklet available for public inspection at each school in the district, at the district office, and in public libraries.

(3) The booklet shall include:

(a) Information about enrollment options and program opportunities, including but not limited to programs in RCW 28A.225.220, 28A.185.040, 28A.225.200 through 28A.225.215, 28A.225.230 through 28A.225.250, ~~((28A.175.090;))~~ 28A.340.010 through 28A.340.070 (small high school cooperative projects), and 28A.335.160.

(b) Information about the running start~~((—community college or vocational-technical institute choice))~~ program under RCW 28A.600.300 through ~~((28A.600.395))~~ 28A.600.400;

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((and))

(c) Information about the seventh and eighth grade choice program under RCW 28A.230.090; and

(d) Information about the college high school diploma options under RCW 28B.50.535.

**Sec. 4.** RCW 28A.600.320 and 2008 c 95 s 3 are each amended to read as follows:

A school district shall provide general information about the program to all pupils in grades ten, eleven, and twelve and the parents and guardians of those pupils, including information about the opportunity to enroll in the program through online courses available at community and technical colleges and other state institutions of higher education and including the college high school diploma options under RCW 28B.50.535. To assist the district in planning, a pupil shall inform the district of the pupil's intent to enroll in courses at an institution of higher education for credit. Students are responsible for applying for admission to the institution of higher education.

**Sec. 5.** RCW 28A.655.061 and 2008 c 321 s 2 are each amended to read as follows:

(1) The high school assessment system shall include but need not be limited to the Washington assessment of student learning, opportunities for a student to retake the content areas of the assessment in which the student was not successful, and if approved by the legislature pursuant to subsection (10) of this section, one or more objective alternative assessments for a student to demonstrate achievement of state academic standards. The objective alternative assessments for each content area shall be comparable in rigor to the skills and knowledge that the student must demonstrate on the Washington assessment of student learning for each content area.

(2) Subject to the conditions in this section, a certificate of academic achievement shall be obtained by most students at about the age of sixteen, and is evidence that the students have successfully met the state standard in the content areas included in the certificate. With the exception of students satisfying the provisions of RCW 28A.155.045 or 28A.655.0611, acquisition of the certificate is required for graduation from a public high school but is not the only requirement for graduation.

(3) Beginning with the graduating class of 2008, with the exception of students satisfying the provisions of RCW 28A.155.045, a student who meets the state standards on the reading, writing, and mathematics content areas of the high school Washington assessment of student learning shall earn a certificate of academic achievement. If a student does not successfully meet the state standards in one or more content areas required for the certificate of academic achievement, then the student may retake the assessment in the content area up to four times at no cost to the student. If the student successfully meets the state standards on a retake of the assessment then the student shall earn a certificate of academic achievement. Once objective alternative assessments are authorized pursuant to subsection (10) of this section, a student may use the objective alternative assessments to demonstrate that the student successfully meets the state standards for that content area if the student has taken the Washington assessment of student learning at least once. If the student successfully meets the state standards on the objective alternative assessments then the student shall earn a certificate of academic achievement.

(4) Beginning no later than with the graduating class of 2013, a student must meet the state standards in science in addition to the other content areas required under subsection (3) of this section on the Washington assessment of student learning or the objective alternative assessments in order to earn a certificate of academic achievement. The state board of

education may adopt a rule that implements the requirements of this subsection (4) beginning with a graduating class before the graduating class of 2013, if the state board of education adopts the rule by September 1st of the freshman school year of the graduating class to which the requirements of this subsection (4) apply. The state board of education's authority under this subsection (4) does not alter the requirement that any change in performance standards for the tenth grade assessment must comply with RCW 28A.305.130.

(5) The state board of education may not require the acquisition of the certificate of academic achievement for students in home-based instruction under chapter 28A.200 RCW, for students enrolled in private schools under chapter 28A.195 RCW, or for students satisfying the provisions of RCW 28A.155.045.

(6) A student may retain and use the highest result from each successfully completed content area of the high school assessment.

(7) School districts must make available to students the following options:

(a) To retake the Washington assessment of student learning up to four times in the content areas in which the student did not meet the state standards if the student is enrolled in a public school; or

(b) To retake the Washington assessment of student learning up to four times in the content areas in which the student did not meet the state standards if the student is enrolled in a high school completion program at a community or technical college. The superintendent of public instruction and the state board for community and technical colleges shall jointly identify means by which students in these programs can be assessed.

(8) Students who achieve the standard in a content area of the high school assessment but who wish to improve their results shall pay for retaking the assessment, using a uniform cost determined by the superintendent of public instruction.

(9) Opportunities to retake the assessment at least twice a year shall be available to each school district.

(10)(a) The office of the superintendent of public instruction shall develop options for implementing objective alternative assessments, which may include an appeals process for students' scores, for students to demonstrate achievement of the state academic standards. The objective alternative assessments shall be comparable in rigor to the skills and knowledge that the student must demonstrate on the Washington assessment of student learning and be objective in its determination of student achievement of the state standards. Before any objective alternative assessments in addition to those authorized in RCW 28A.655.065 or (b) of this subsection are used by a student to demonstrate that the student has met the state standards in a content area required to obtain a certificate, the legislature shall formally approve the use of any objective alternative assessments through the omnibus appropriations act or by statute or concurrent resolution.

(b)(i) A student's score on the mathematics, reading or English, or writing portion of the ~~((scholastic assessment test))~~ SAT~~((s))~~ or the ~~((American college test))~~ ACT~~((t))~~ may be used as an objective alternative assessment under this section for demonstrating that a student has met or exceeded the state standards for the certificate of academic achievement. The state board of education shall identify the scores students must achieve on the relevant portion of the SAT or ACT to meet or exceed the state standard in the relevant content area on the Washington assessment of student learning. The state board of education shall identify the first scores by December 1, 2007. After the first scores are established, the state board may

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increase but not decrease the scores required for students to meet or exceed the state standards.

(ii) Until August 31, 2008, a student's score on the mathematics portion of the ~~((preliminary scholastic assessment test--))~~PSAT~~(( ))~~ may be used as an objective alternative assessment under this section for demonstrating that a student has met or exceeded the state standard for the certificate of academic achievement. The state board of education shall identify the score students must achieve on the mathematics portion of the PSAT to meet or exceed the state standard in that content area on the Washington assessment of student learning.

(iii) A student who scores at least a three on the grading scale of one to five for selected AP examinations may use the score as an objective alternative assessment under this section for demonstrating that a student has met or exceeded state standards for the certificate of academic achievement. A score of three on the AP examinations in calculus or statistics may be used as an alternative assessment for the mathematics portion of the Washington assessment of student learning. A score of three on the AP examinations in English language and composition may be used as an alternative assessment for the writing portion of the Washington assessment of student learning. A score of three on the AP examinations in English literature and composition, macroeconomics, microeconomics, psychology, United States history, world history, United States government and politics, or comparative government and politics may be used as an alternative assessment for the reading portion of the Washington assessment of student learning.

(11) By December 15, 2004, the house of representatives and senate education committees shall obtain information and conclusions from recognized, independent, national assessment experts regarding the validity and reliability of the high school Washington assessment of student learning for making individual student high school graduation determinations.

(12) To help assure continued progress in academic achievement as a foundation for high school graduation and to assure that students are on track for high school graduation, each school district shall prepare plans for and notify students and their parents or legal guardians as provided in this subsection (12).

(a) Student learning plans are required for eighth through twelfth grade students who were not successful on any or all of the content areas of the Washington assessment for student learning during the previous school year or who may not be on track to graduate due to credit deficiencies or absences. The parent or legal guardian shall be notified about the information in the student learning plan, preferably through a parent conference and at least annually. To the extent feasible, schools serving English language learner students and their parents shall translate the plan into the primary language of the family. The plan shall include the following information as applicable:

(i) The student's results on the Washington assessment of student learning;

(ii) If the student is in the transitional bilingual program, the score on his or her Washington language proficiency test II;

(iii) Any credit deficiencies;

(iv) The student's attendance rates over the previous two years;

(v) The student's progress toward meeting state and local graduation requirements;

(vi) The courses, competencies, and other steps needed to be taken by the student to meet state academic standards and stay on track for graduation;

(vii) Remediation strategies and alternative education options available to students, including informing students of

the option to continue to receive instructional services after grade twelve or until the age of twenty-one;

(viii) The alternative assessment options available to students under this section and RCW 28A.655.065;

(ix) School district programs, high school courses, and career and technical education options available for students to meet graduation requirements; and

(x) Available programs offered through skill centers or community and technical colleges, including the college high school diploma options under RCW 28B.50.535.

(b) All fifth grade students who were not successful in one or more of the content areas of the fourth grade Washington assessment of student learning shall have a student learning plan.

(i) The parent or guardian of the student shall be notified, preferably through a parent conference, of the student's results on the Washington assessment of student learning, actions the school intends to take to improve the student's skills in any content area in which the student was unsuccessful, and provide strategies to help them improve their student's skills.

(ii) Progress made on the student plan shall be reported to the student's parents or guardian at least annually and adjustments to the plan made as necessary."

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

#### MOTION

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

On page 1, line 27 of the amendment, after "college" insert "upon written request from the student"

On page 1, after line 27 of the amendment, insert the following:

"(3) An individual, twenty-one years or older, who enrolls in a community or technical college for the purpose of obtaining an associate degree and who satisfactorily completes an associate degree, including an associate of arts degree, associate of science degree, associate of technology degree, or associate in applied science degree, shall be awarded a diploma from the college upon written request from the student. Individuals under this section are not eligible for funding provided under chapter 28A.150 RCW."

Senators McAuliffe and McCaslin 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 McAuliffe and King on page 1, line 27 to the committee striking amendment to Substitute House Bill No. 1758.

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Early Learning & K-12 Education as amended to Substitute House Bill No. 1758.

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

#### MOTION

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

On page 1, line 2 of the title, after "diplomas;" strike the remainder of the title and insert "amending RCW 28B.50.535, 28A.225.290, 28A.600.320, and 28A.655.061; and creating a new section."

#### MOTION

On motion of Senator McAuliffe, the rules were suspended, Substitute House Bill No. 1758 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Marr, Senator Kohl-Welles was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1758 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1758 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Berkey, Brown and Hargrove

SUBSTITUTE HOUSE BILL NO. 1758 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. 1943, by House Committee on Early Learning & Children's Services (originally sponsored by Representatives Kagi, Goodman, Priest, Walsh, Probst, Quall, Rolfes, Kenney, Dickerson, Kelley and Santos)

Requiring recommendations for preparation and professional development for the early learning and school-age program workforce.

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 that well-prepared and appropriately supported teachers and caregivers are essential to improving the quality of early learning programs

and enhancing the nature of children's experiences in those programs. The legislature also finds that professional development programs and supports are most effective when they are easily accessed by workers; aligned with other elements of quality; and articulated with degree-granting programs and clearly defined career pathways. In addition, the legislature acknowledges the potential for early learning professionals to support effective and positive parenting, and the benefits of making information about early learning and development accessible to the many family, friends, and neighbors providing care for Washington's infants, toddlers, and preschoolers. The legislature further finds that the professional development consortium convened by the early learning advisory council has begun the work necessary to build an integrated system of preparation and ongoing professional development for the state's early learning and school-age program workforce. The legislature intends to promote the momentum of the consortium's work and to request periodic updates from the consortium before receiving a comprehensive report of progress and recommendations.

NEW SECTION. **Sec. 2.** (1) In partnership with the department of early learning, the professional development consortium convened by the early learning advisory council in response to the early learning partnership resolution between the department of early learning, the nongovernmental private-public partnership created in RCW 43.215.070, and the office of the superintendent of public instruction, shall develop recommendations for a statewide system of preparation and continuing professional development for the early learning and school-age program workforce. To develop its recommendations, the consortium shall collaborate or consult with existing work groups and similar efforts underway in Washington.

(2) The professional development consortium shall include representatives from a wide array of organizations, including but not limited to:

- (a) The department of early learning;
- (b) The Washington state department of health;
- (c) Educational service districts and school districts;
- (d) The state board for community and technical colleges;
- (e) The higher education coordinating board;
- (f) The office of the superintendent of public instruction;
- (g) Washington Indian tribes;
- (h) The nongovernmental private-public partnership created in RCW 43.215.070;

(i) The Washington state child care resource and referral network; and

(j) Any other organizations that represent, research, or provide professional development to the early learning and school-age program workforce.

(3) The professional development consortium shall map current professional development resources and strategies across the state to identify gaps in the current system and make recommendations for improving the coordination of existing resources and strategies; define core competencies or core knowledge areas for early learning professionals; and develop recommendations for a plan to implement a statewide, comprehensive, and integrated pathway of preparation and continuing professional development and support for the early learning and school-age program workforce.

(4) Recommendations for the plan shall include but not be limited to:

(a) Creation of a coherent system of professional development, including delineation of core competencies for early learning and school-age program staff, directors, and

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administrators;

(b) Requirements for articulation agreements between certificate and credential programs, degree-granting programs, professional development programs, and community-based training programs to enable students to transition effectively between two and four-year institutions of higher education and to apply approved training programs toward credit-based learning; and

(c) Creation of a comprehensive, integrated registry designed to capture information, including workforce and professional development data, for all early learning and school-age programs that is easily accessible, to the extent allowed by law, by early learning and school-age program professionals, directors, trainers, researchers, resource and referral networks, and the department of early learning.

(5) The report from the professional development consortium shall also include:

(a) An analysis of gaps in available professional development programs and recommendations for programs to address the needs of early learning and school-age providers who serve children with physical or developmental disabilities, behavioral challenges, and other special needs;

(b) A discussion of evidence-based incentives and supports for the early learning and school-age program workforce to obtain additional training and education;

(c) An analysis of evidence-based compensation policies that encourage and reward completion of professional development programs; and

(d) An exploration of strategies for providing professional development opportunities in languages other than English, and incorporation of these opportunities into the comprehensive pathway for preparation and professional development.

(6) The department of early learning and the professional development consortium shall report to the governor and the appropriate committees of the legislature by:

(a) September 15, 2009, and December 31, 2009, with a brief status update of the consortium's work plan; and

(b) December 31, 2010, with final recommendations for a comprehensive statewide integrated system of preparation and continuing professional development for the early learning and school-age program workforce.

(7) This section expires July 1, 2011."

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. 1943.

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 3 of the title, after "workforce;" strike the remainder of the title and insert "creating new sections; and providing an expiration date."

MOTION

On motion of Senator McAuliffe, the rules were suspended, Substitute House Bill No. 1943 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

MOTION

On motion of Senator Marr, Senator Kohl-Welles was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1943 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1943 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Berkey, Brown, Hargrove and Kohl-Welles

SUBSTITUTE HOUSE BILL NO. 1943 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. 2003, by House Committee on Education (originally sponsored by Representatives Orwall, Sullivan, Quall, Priest and Maxwell)

Changing professional educator standards board provisions.

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.** A new section is added to chapter 28A.410 RCW to read as follows:

The professional educator standards board shall:

(1) Develop and maintain a research base of educator preparation best practices;

(2) Develop and coordinate initiatives for educator preparation in high-demand fields as well as outreach and recruitment initiatives for underrepresented populations;

(3) Provide program improvement technical assistance to providers of educator preparation programs;

(4) Assure educator preparation program compliance; and

(5) Prepare and maintain a cohesive educator development policy framework.

**Sec. 2.** RCW 28A.410.200 and 2005 c 497 s 202 are each amended to read as follows:

(1)(a) The Washington professional educator standards board is created, consisting of (~~twenty~~) twelve members to be

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appointed by the governor to four-year terms and the superintendent of public instruction. On August 1, 2009, the board shall be reduced to twelve members.

~~(b) ((As the four-year terms of the first appointees expire or)) Vacancies ((to) on the board ((occur for the first time,)) shall be filled by appointment or reappointment by the governor ((shall appoint or reappoint the members of the board to one-year to four-year staggered terms. Once the one-year to three-year terms expire, all subsequent terms shall be for)) to terms of four years((- with the terms expiring on June 30th of the applicable year. The terms shall be staggered in such a way that, where possible, the terms of members representing a specific group do not expire simultaneously)).~~

~~(c) No person may serve as a member of the board for more than two consecutive full four-year terms.~~

~~(d) The governor shall ((annually)) biennially appoint the chair of the board ((from among the teachers and principals on the board)). No board member may serve as chair for more than ((two)) four consecutive years.~~

~~(2) ((Seven of the members shall be public school teachers, one shall be a private school teacher, three shall represent higher education educator preparation programs, four shall be school administrators, two shall be educational staff associates, one shall be a classified employee who assists in public school student instruction, one shall be a parent, and one shall be a member of the public.~~

~~—(3) Public school teachers appointed to the board must:~~

~~—(a) Have at least three years of teaching experience in a Washington public school;~~

~~—(b) Be currently certificated and actively employed in a teaching position; and~~

~~—(c) Include one teacher currently teaching at the elementary school level, one at the middle school level, one at the high school level, and one vocationally certificated.~~

~~—(4) Private school teachers appointed to the board must:~~

~~—(a) Have at least three years of teaching experience in a Washington approved private school; and~~

~~—(b) Be currently certificated and actively employed in a teaching position in an approved private school.~~

~~—(5) Appointees from higher education educator preparation programs must include two representatives from institutions of higher education as defined in RCW 28B.10.016 and one representative from an institution of higher education as defined in RCW 28B.07.020(4).~~

~~—(6) School administrators appointed to the board must:~~

~~—(a) Have at least three years of administrative experience in a Washington public school district;~~

~~—(b) Be currently certificated and actively employed in a school administrator position; and~~

~~—(c) Include two public school principals, one Washington approved private school principal, and one superintendent.~~

~~—(7) Educational staff associates appointed to the board must:~~

~~—(a) Have at least three years of educational staff associate experience in a Washington public school district; and~~

~~—(b) Be currently certificated and actively employed in an educational staff associate position.~~

~~—(8) Public school classified employees appointed to the board must:~~

~~—(a) Have at least three years of experience in assisting in the instruction of students in a Washington public school; and~~

~~—(b) Be currently employed in a position that requires the employee to assist in the instruction of students.~~

~~—(9) Each major caucus of the house of representatives and the senate shall submit a list of at least one public school teacher. In making the public school teacher appointments, the~~

~~governor shall select one nominee from each list provided by each caucus. The governor shall appoint the remaining members of the board from a list of qualified nominees submitted to the governor by organizations representative of the constituencies of the board, from applications from other qualified individuals, or from both nominees and applicants.~~

~~—(10) All appointments to the board made by the governor shall be subject to confirmation by the senate.~~

~~—(11) The governor shall appoint the members of the initial board no later than June 1, 2000.~~

~~—(12) In appointing board members, the governor shall consider the diversity of the population of the state.~~

~~—(13)) A majority of the members of the board shall be active practitioners with the majority being classroom based. Membership on the board shall include individuals having one or more of the following:~~

~~(a) Experience in one or more of the education roles for which state preparation program approval is required and certificates issued;~~

~~(b) Experience providing or leading a state-approved teacher or educator preparation program;~~

~~(c) Experience providing mentoring and coaching to education professionals or others; and~~

~~(d) Education-related community experience.~~

~~(3) In appointing board members, the governor shall consider the individual's commitment to quality education and the ongoing improvement of instruction, experiences in the public schools or private schools, involvement in developing quality teaching preparation and support programs, and vision for the most effective yet practical system of assuring teaching quality. The governor shall also consider the diversity of the population of the state.~~

~~—(4) All appointments to the board made by the governor are subject to confirmation by the senate.~~

~~—(5) Each member of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060.~~

~~((14)) (6) The governor may remove a member of the board for neglect of duty, misconduct, malfeasance or misfeasance in office, or for incompetency or unprofessional conduct as defined in chapter 18.130 RCW. In such a case, the governor shall file with the secretary of state a statement of the causes for and the order of removal from office, and the secretary of state shall send a certified copy of the statement of causes and order of removal to the last known post office address of the member.~~

~~((15) If a vacancy occurs on the board, the governor shall appoint a replacement member from the nominees as specified in subsection (9) of this section to fill the remainder of the unexpired term. When filling a vacancy of a member nominated by a major caucus of the legislature, the governor shall select the new member from a list of at least one name submitted by the same caucus that provided the list from which the retiring member was appointed.~~

~~—(16)) (7) Members of the board shall hire an executive director and an administrative assistant to reside in the office of the superintendent of public instruction for administrative purposes only.~~

~~(8) Members of the board may create informal advisory groups as needed to inform the board's work.~~

~~Sec. 3. RCW 28A.410.100 and 2005 c 497 s 207 are each amended to read as follows:~~

~~Any teacher whose certificate to teach has been questioned under RCW 28A.410.090 shall have a right to be heard by the~~

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issuing authority before his or her certificate is revoked. ~~((Any teacher whose certificate to teach has been revoked shall have a right of appeal to the Washington professional educator standards board if notice of appeal is given by written affidavit to the board within thirty days after the certificate is revoked.~~

~~An appeal to the Washington professional educator standards board within the time specified shall operate as a stay of revocation proceedings until the next regular or special meeting of said board and until the board's decision has been rendered.)~~

**Sec. 4.** RCW 28A.410.210 and 2008 c 176 s 1 are each amended to read as follows:

The purpose of the professional educator standards board is to establish policies and requirements for the preparation and certification of educators that provide standards for competency in professional knowledge and practice in the areas of certification; a foundation of skills, knowledge, and attitudes necessary to help students with diverse needs, abilities, cultural experiences, and learning styles meet or exceed the learning goals outlined in RCW 28A.150.210; knowledge of research-based practice; and professional development throughout a career. The Washington professional educator standards board shall:

(1) Establish policies and practices for the approval of programs of courses, requirements, and other activities leading to educator certification including teacher, school administrator, and educational staff associate certification;

(2) Establish policies and practices for the approval of the character of work required to be performed as a condition of entrance to and graduation from any educator preparation program including teacher, school administrator, and educational staff associate preparation program as provided in subsection (1) of this section;

(3) Establish a list of accredited institutions of higher education of this and other states whose graduates may be awarded educator certificates as teacher, school administrator, and educational staff associate and establish criteria and enter into agreements with other states to acquire reciprocal approval of educator preparation programs and certification, including teacher certification from the national board for professional teaching standards;

(4) Establish policies for approval of nontraditional educator preparation programs;

(5) Conduct a review of educator program approval standards at least every five years, beginning in 2006, to reflect research findings and assure continued improvement of preparation programs for teachers, administrators, and school specialized personnel;

(6) Specify the types and kinds of educator certificates to be issued and conditions for certification in accordance with subsection (1) of this section and RCW 28A.410.010;

~~(7) ((Hear and determine educator certification appeals as provided by RCW 28A.410.100;~~

~~(8)) Apply for and receive federal or other funds on behalf of the state for purposes related to the duties of the board;~~

~~((9)) (8) Adopt rules under chapter 34.05 RCW that are necessary for the effective and efficient implementation of this chapter;~~

~~((10)) (9) Maintain data concerning educator preparation programs and their quality, educator certification, educator employment trends and needs, and other data deemed relevant by the board;~~

~~((11)) (10) Serve as an advisory body to the superintendent of public instruction on issues related to educator recruitment, hiring, mentoring and support, professional growth, retention,~~

educator evaluation including but not limited to peer evaluation, and revocation and suspension of licensure;

~~((12)) (11) Submit, by October 15th of each even-numbered year, a joint report with the state board of education to the legislative education committees, the governor, and the superintendent of public instruction. The report shall address the progress the boards have made and the obstacles they have encountered, individually and collectively, in the work of achieving the goals set out in RCW 28A.150.210;~~

~~((13)) (12) Establish the prospective teacher assessment system for basic skills and subject knowledge that shall be required to obtain residency certification pursuant to RCW 28A.410.220 through 28A.410.240;~~

~~((14)) (13) By January 2010, set performance standards and develop, pilot, and implement a uniform and externally administered professional-level certification assessment based on demonstrated teaching skill. In the development of this assessment, consideration shall be given to changes in professional certification program components such as the culminating seminar; and~~

~~((15)) (14) Conduct meetings under the provisions of chapter 42.30 RCW.~~

**NEW SECTION. Sec. 5.** Section 2 of this act takes effect August 1, 2009."

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. 2003.

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 "duties;" strike the remainder of the title and insert "amending RCW 28A.410.200, 28A.410.100, and 28A.410.210; adding a new section to chapter 28A.410 RCW; and providing an effective date."

MOTION

On motion of Senator McAuliffe, the rules were suspended, Substitute House Bill No. 2003 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2003 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2003 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

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

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

Voting nay: Senator Hatfield

Excused: Senators Berkey, Brown and Hargrove

SUBSTITUTE HOUSE BILL NO. 2003 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 5:49 p.m., on motion of Senator Eide, the Senate adjourned until 9:00 a.m. Friday, April 10, 2009.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

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