ONE HUNDREDTH DAY

House Chamber, Olympia, Tuesday, April 19

The House was called to order at 10:00 a.m. by the Speaker (Representative Lovick presiding). The Clerk called the roll and a quorum was present.

The flag was escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Chelsea Greenwood and Kristal Gibelyou. The Speaker (Representative Lovick presiding) led the Chamber in the Pledge of Allegiance. Prayer was offered by Pastor Lance Powers, Abundant Life Foursquare Church, Orting..

Reading of the Journal of the previous day was dispensed with and it was ordered to stand approved.

MESSAGES FROM THE SENATE

April 19, 2005

Mr. Speaker:

The Senate concurred in the House amendments to the following bills and passed the bills as amended by the House:

SUBSTITUTE SENATE BILL NO. 5112,
SENATE BILL NO. 5196,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5441,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5577,
ENGROSSED SENATE BILL NO. 5583,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5599,
SUBSTITUTE SENATE BILL NO. 5631,
SUBSTITUTE SENATE BILL NO. 5692,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5806,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5872,
SENATE BILL NO. 5898,
SUBSTITUTE SENATE BILL NO. 5899,
SENATE BILL NO. 5979,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5983,
SUBSTITUTE SENATE BILL NO. 5992,
SUBSTITUTE SENATE BILL NO. 6022,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

April 18, 2005

Mr. Speaker:

The Senate concurred in the House amendments to the following bills and passed the bills as amended by the House:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5121,
SUBSTITUTE SENATE BILL NO. 5169,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5186,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5415,
ENGROSSED SENATE BILL NO. 5423,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

April 18, 2005

Mr. Speaker:

The Senate concurred in the House amendments to the following bills and passed the bills as amended by the House:

SUBSTITUTE SENATE BILL NO. 5038,
SUBSTITUTE SENATE BILL NO. 5052,
SUBSTITUTE SENATE BILL NO. 5064,
SENATE BILL NO. 5127,
SUBSTITUTE SENATE BILL NO. 5139,
SENATE BILL NO. 5254,
SUBSTITUTE SENATE BILL NO. 5449,
SUBSTITUTE SENATE BILL NO. 5767,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

SENATE AMENDMENTS TO HOUSE BILL

April 13, 2005

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1999, with the following amendment:

On page 2, after line 19, insert the following:

"NEW SECTION. **Sec. 2.** A new section is added to chapter 46.63 RCW to read as follows:

(1) In the event a traffic infraction is based on a vehicle's identification, and the registered owner of the vehicle is a rental car business, the law enforcement agency shall, before a notice of infraction may be issued, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within thirty days of receiving the written notice, provide to the issuing agency by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred.

Timely mailing of this statement to the issuing law enforcement agency relieves a rental car business of any liability under this chapter for the notice of infraction. In lieu of identifying the vehicle operator, the rental car business may pay the applicable penalty.

(2) For the purpose of this section, a "traffic infraction based on a vehicle's identification" includes, but is not limited

to, parking infractions, high-occupancy toll lane violations, and violations recorded by automated traffic safety cameras."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1999 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representatives Wallace and Nixon spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of House Bill No. 1999 as amended by the Senate.

MOTIONS

On motion of Representative Santos, Representatives Kenney, McIntire, Miloscia, Pettigrew, Sommers and Upthegrove were excused. On motion of Representative Clements, Representative Curtis was excused. There being no objection, Representative Campbell was excused.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1999, as amended by the Senate and the bill passed the House by the following vote: Yeas - 90, Nays - 0, Absent - 0, Excused - 8.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 90.

Excused: Representatives Campbell, Curtis, Kenney, McIntire, Miloscia, Pettigrew, Sommers and Upthegrove - 8.

HOUSE BILL NO. 1999, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 13, 2005

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2085, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that discarded tires in unauthorized dump sites pose a health and safety risk to the public. Many of these tire piles have been in existence for a significant amount of time and are a continuing challenge to state and local officials responsible for cleaning up unauthorized dump sites and preventing further accumulation of waste tires. Therefore it is the intent of the legislature to document the extent of the problem, create and fund an effective program to eliminate unauthorized tire piles, and minimize potential future problems and costs.

Sec. 2. RCW 70.95.510 and 1989 c 431 s 92 are each amended to read as follows:

(1) There is levied a one dollar per tire fee on the retail sale of new replacement vehicle tires for a period of five years, beginning ((~~October 1, 1989~~)) July 1, 2005. The fee imposed in this section shall be paid by the buyer to the seller, and each seller shall collect from the buyer the full amount of the fee. The fee collected from the buyer by the seller less the ten percent amount retained by the seller as provided in RCW 70.95.535(1) shall be paid to the department of revenue in accordance with RCW 82.32.045.

(2) The department of revenue shall incorporate into the agency's regular audit cycle a reconciliation of the number of tires sold and the amount of revenue collected by the businesses selling new replacement vehicle tires at retail. The department of revenue shall collect on the business excise tax return from the businesses selling new replacement vehicle tires at retail:

(a) The number of tires sold; and

(b) The fee levied in this section.

(3) All other applicable provisions of chapter 82.32 RCW have full force and application with respect to the fee imposed under this section. The department of revenue shall administer this section.

(4) For the purposes of this section, "new replacement vehicle tires" means tires that are newly manufactured for vehicle purposes and does not include retreaded vehicle tires.

NEW SECTION. **Sec. 3.** A new section is added to chapter 70.95 RCW to read as follows:

The waste tire removal account is created in the state treasury. All receipts from tire fees imposed under RCW 70.95.510 must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used for the cleanup of unauthorized waste tire piles and measures that prevent future accumulation of unauthorized waste tire piles.

NEW SECTION. **Sec. 4.** A new section is added to chapter 70.95 RCW to read as follows:

(1) The fee required by this chapter, to be collected by the seller, shall be deemed to be held in trust by the seller until paid to the department of revenue, and any seller who appropriates or converts the fee collected to his or her own use or to any use other than the payment of the fee to the extent that the money required to be

collected is not available for payment on the due date as prescribed in this chapter is guilty of a gross misdemeanor.

(2) In case any seller fails to collect the fee imposed in this chapter or, having collected the fee, fails to pay it to the department of revenue in the manner prescribed by this chapter, whether such failure is the result of his or her own acts or the result of acts or conditions beyond his or her control, he or she shall, nevertheless, be personally liable to the state for the amount of the fee.

(3) The amount of the fee, until paid by the buyer to the seller or to the department of revenue, shall constitute a debt from the buyer to the seller and any seller who fails or refuses to collect the fee as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any buyer who refuses to pay any fee due under this chapter is guilty of a misdemeanor.

Sec. 5. RCW 70.95.530 and 1988 c 250 s 1 are each amended to read as follows:

(1) Moneys in the waste tire removal account may be appropriated to the department of ecology:

(((~~(1)~~))) (a) To provide for funding to state and local governments for the removal of discarded vehicle tires from unauthorized tire dump sites;

(((~~(2)~~))) (b) To accomplish the other purposes of RCW 70.95.020(((~~(5)~~))) as they relate to waste tire cleanup under this chapter; and

(((~~(3) To fund the study authorized in section 2, chapter 250, Laws of 1988~~))) (c) To conduct a study of existing tire cleanup sites. The office of financial management shall oversee the study process and approve the completed study. The completed study shall be delivered to the house of representatives and senate transportation committees by November 15, 2005. In conducting the study, the department shall consult on a regular basis with interested parties. The following identified elements at a minimum shall be included in the completed study:

(i) Identification of existing tire cleanup sites in the state of Washington;

(ii) The estimated number of tires in each tire cleanup site;

(iii) A map identifying the location of each one of the tire cleanup sites;

(iv) A photograph of each one of the tire cleanup sites;

(v) The estimated cost for cleanup of each tire site by cost component;

(vi) The estimated reimbursement of costs to be recovered from persons or entities that created or have responsibility for the tire cleanup site;

(vii) Identification of the type of reimbursements for recovery by each of the tire cleanup sites;

(viii) The estimated time frame to begin the cleanup project and the estimated completion date for each tire cleanup site;

(ix) An assessment of local government functions relating to unauthorized tire piles, including cleanup, enforcement, and public health;

(x) Identification of needs in the areas in (c)(ix) of this subsection for each one of the counties; and

(xi) A statewide cleanup plan based on multiple funding options between twenty cents and sixty cents for each new tire sold at retail in the state starting on July 1, 2005. The plan shall include the estimated time frame to begin each of the tire cleanup sites and the estimated completion date for each one of the sites. In addition, the plan must include a process to be followed in selecting entities to perform the tire site cleanups. The 2006 legislature shall determine the final distribution of the tire cleanup fee and the appropriations for this statewide tire cleanup plan.

(2) In spending funds in the account under this section, the department of ecology shall identify communities with the most severe problems with waste tires and provide funds first to those communities to remove accumulations of waste tires.

(3) Immediately after the effective date of this section, the department of ecology shall initiate a pilot project in a city with a population between three and four thousand within a county with a population less than twenty thousand to contract to clean up a formerly licensed tire pile in existence for ten or more years. To begin the project, the department shall seek to use financial assurance funds set aside for clean up of the tire pile. For purposes of this subsection, population figures are the official 2004 population as estimated by the office of financial management for purposes of state revenue allocation.

Sec. 6. RCW 70.95.555 and 1988 c 250 s 4 are each amended to read as follows:

Any person engaged in the business of transporting or storing waste tires shall be licensed by the department. To obtain a license, each applicant must:

(1) Provide assurances that the applicant is in compliance with this chapter and the rules regarding waste tire storage and transportation; ((~~and~~))

(2) Accept liability for and authorize the department to recover any costs incurred in any cleanup of waste tires transported or newly stored by the applicant in violation of this section, or RCW 70.95.560 or section 4 or 8 of this act, or rules adopted thereunder, after the effective date of this section;

(3) Until January 1, 2006, post a bond in the sum of ten thousand dollars in favor of the state of Washington for waste tires transported or stored before the effective date of this section. In lieu of the bond, the applicant may submit financial assurances acceptable to the department;

(4) After January 1, 2006, for waste tires transported or stored before the effective date of this section, or for waste tires transported or stored after the effective date of this section, post a bond in an amount to be determined by the department sufficient to cover the liability for the cost of cleanup of the transported or stored waste tires, in favor of the state of Washington. In lieu of the bond, the applicant may submit financial assurances acceptable to the department;

(5) Be registered in the state of Washington as a business and be in compliance with all state laws, rules, and local ordinances;

(6) Have a federal tax identification number and be in compliance with all applicable federal codes and regulations; and

(7) Report annually to the department the amount of tires transported and their disposition. Failure to report shall result in revocation of the license.

Sec. 7. RCW 70.95.560 and 1989 c 431 s 95 are each amended to read as follows:

(1) Any person who transports or stores waste tires without a license in violation of RCW 70.95.555 shall be guilty of a gross misdemeanor and upon conviction shall be punished under RCW 9A.20.021(2).

(2) Any person who transports or stores waste tires without a license in violation of RCW 70.95.555 is liable for the costs of cleanup of any and all waste tires transported or stored. This subsection does not apply to the storage of waste tires when the storage of the tires occurred before the effective date of this section

and the storage was licensed in accordance with RCW 70.95.555 at the time the tires were stored.

NEW SECTION. **Sec. 8.** A new section is added to chapter 70.95 RCW to read as follows:

No person or business, having documented proof that it legally transferred possession of waste tires to a validly licensed transporter or storer of waste tires or to a validly permitted recycler, has any further liability related to the waste tires legally transferred.

NEW SECTION. **Sec. 9.** The sum of one hundred fifty thousand dollars, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 2006, from the waste tire removal account to the office of financial management to reimburse the department of ecology to complete the study in section 5 of this act.

NEW SECTION. **Sec. 10.** The sum of forty thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 2007, from the waste tire removal account to the department of revenue for administration of the fee established in section 2 of this act.

NEW SECTION. **Sec. 11.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 12.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2005."

On page 1, line 1 of the title, after "tires;" strike the remainder of the title and insert "amending RCW 70.95.510, 70.95.530, 70.95.555, and 70.95.560; adding new sections to chapter 70.95 RCW; creating a new section; prescribing penalties; making appropriations; providing an effective date; and declaring an emergency."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2085 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representative Wallace spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 2085 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2085, as amended by the Senate and the bill passed the House by the following vote: Yeas - 75, Nays - 20, Absent - 0, Excused - 3.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Bailey, Blake, Buck, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McDonald, McIntire, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Ormsby, Priest, Quall, Roberts, Rodne, Santos, Schual-Berke, Sells, Shabro, Simpson, Skinner, Springer, Strow, Sullivan, B., Sullivan, P., Takko, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 75.

Voting nay: Representatives Armstrong, Buri, Condotta, Cox, Crouse, Curtis, DeBolt, Dunn, Ericksen, Holmquist, Kretz, Kristiansen, McCune, Orcutt, Pearson, Roach, Schindler, Serben, Sump and Talcott - 20.

Excused: Representatives Miloscia, Pettigrew and Sommers - 3.

SUBSTITUTE HOUSE BILL NO. 2085, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 11, 2005

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 2101, with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9A.44.130 and 2003 c 215 s 1 and 2003 c 53 s 68 are each reenacted and amended to read as follows:

(1)(a) Any adult or juvenile residing whether or not the person has a fixed residence, or who is a student, is employed, or carries on a vocation in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense or kidnapping offense, shall register with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation, or as otherwise specified in this section. Where a person required to register under this section is in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility as a result of a sex offense or kidnapping offense, the person shall also register at the time of release from custody with an official designated by the agency that has jurisdiction over the person. ((~~In addition, any such~~))

(b) Any adult or juvenile who is required to register under (a) of this subsection:

(((~~(a)~~))) (i) Who is attending, or planning to attend, a public or private school regulated under Title 28A RCW or chapter 72.40 RCW shall, within ten days of enrolling or prior to arriving at the school to attend classes, whichever is earlier, notify the sheriff for the county of the person's residence of the person's intent to attend the school, and the sheriff shall promptly notify the principal of the school;

(ii) Who is admitted to a public or private institution of higher education shall, within ten days of enrolling or by the first business day after arriving at the institution, whichever is earlier, notify the sheriff for the county of the person's residence of the person's intent to attend the institution;

(((~~(b)~~))) (iii) Who gains employment at a public or private institution of higher education shall, within ten days of accepting employment or by the first business day after commencing work at the institution, whichever is earlier, notify the sheriff for the county of the person's residence of the person's employment by the institution; or

(((~~(c)~~))) (iv) Whose enrollment or employment at a public or private institution of higher education is terminated shall, within ten days of such termination, notify the sheriff for the county of the person's residence of the person's termination of enrollment or employment at the institution.

(c) Persons required to register under this section who are enrolled in a public or private institution of higher education on June 11, 1998, or a public or private school regulated under Title 28A RCW or chapter 72.40 RCW on the effective date of this act, must notify the county sheriff immediately.

(d) The sheriff shall notify the school's principal or institution's department of public safety and shall provide that department with the same information provided to a county sheriff under subsection (3) of this section.

(e)(i) A principal receiving notice under this subsection must disclose the information received from the sheriff under (b) of this subsection as follows:

(A) If the student who is required to register as a sex offender is classified as a risk level II or III, the principal shall provide the information received to every teacher of any student required to register under (a) of this subsection and to any other personnel who, in the judgment of the principal, supervises the student or for security purposes should be aware of the student's record;

(B) If the student who is required to register as a sex offender is classified as a risk level I, the principal shall provide the information received only to personnel who, in the judgment of the principal, for security purposes should be aware of the student's record.

(ii) Any information received by a principal or school personnel under this subsection is confidential and may not be further disseminated except as provided in RCW 28A.225.330, other statutes or case law, and the family and educational and privacy rights act of 1994, 20 U.S.C. Sec. 1232g et seq.

(2) This section may not be construed to confer any powers pursuant to RCW 4.24.500 upon the public safety department of any public or private school or institution of higher education.

(3)(a) The person shall provide the following information when registering: (i) Name; (ii) address; (iii) date and place of birth; (iv) place of employment; (v) crime for which convicted; (vi) date and place of conviction; (vii) aliases used; (viii) social security number; (ix) photograph; and (x) fingerprints.

(b) Any person who lacks a fixed residence shall provide the following information when registering: (i) Name; (ii) date and place of birth; (iii) place of employment; (iv) crime for which convicted; (v) date and place of conviction; (vi) aliases used; (vii) social security number; (viii) photograph; (ix) fingerprints; and (x) where he or she plans to stay.

(4)(a) Offenders shall register with the county sheriff within the following deadlines. For purposes of this section the term "conviction" refers to adult convictions and juvenile adjudications for sex offenses or kidnapping offenses:

(i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex offense on, before, or after February 28, 1990, and who, on or after July 28, 1991, are in custody, as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, and (B) kidnapping offenders who on or after July 27, 1997, are in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register at the time of release from custody with an official designated by the agency that has jurisdiction over the offender. The agency shall within three days forward the registration information to the county sheriff for the county of the offender's anticipated residence. The offender must also register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register. Failure to register at the time of release and within twenty-four hours of release constitutes a violation of this section and is punishable as provided in subsection (10) of this section.

When the agency with jurisdiction intends to release an offender with a duty to register under this section, and the agency has knowledge that the offender is eligible for developmental disability services from the department of social and health services, the agency shall notify the division of developmental disabilities of the release. Notice shall occur not more than thirty days before the offender is to be released. The agency and the division shall assist the offender in meeting the initial registration requirement under this section. Failure to provide such assistance shall not constitute a defense for any violation of this section.

(ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(ii) as of July 28, 1991, or a kidnapping offender required to register as of July 27, 1997, shall not relieve the offender of the duty to register or to reregister following a change in residence. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on or after July 23, 1995, and kidnapping offenders who, on or after July 27, 1997, as a result of that offense are in the custody of the United States bureau of prisons or other federal or

military correctional agency for sex offenses committed before, on, or after February 28, 1990, or kidnapping offenses committed on, before, or after July 27, 1997, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. Sex offenders who, on July 23, 1995, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(iii) as of July 23, 1995, or a kidnapping offender required to register as of July 27, 1997 shall not relieve the offender of the duty to register or to reregister following a change in residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders who are convicted of a sex offense on or after July 28, 1991, for a sex offense that was committed on or after February 28, 1990, and kidnapping offenders who are convicted on or after July 27, 1997, for a kidnapping offense that was committed on or after July 27, 1997, but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to the county sheriff to register immediately upon completion of being sentenced.

(v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS. Sex offenders and kidnapping offenders who move to Washington state from another state or a foreign country that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington, must register within thirty days of establishing residence or reestablishing residence if the person is a former Washington resident. The duty to register under this subsection applies to sex offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed on or after February 28, 1990, and to kidnapping offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed on or after July 27, 1997. Sex offenders and kidnapping offenders from other states or a foreign country who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within twenty-four hours of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington.

(vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult or juvenile who has been found not guilty by reason of insanity under chapter 10.77 RCW of (A) committing a sex offense on, before, or after February 28, 1990, and who, on or after July 23, 1995, is in custody, as a result of that finding, of the state department of social and health services, or (B) committing a kidnapping offense on, before, or after July 27, 1997, and who on or after July 27, 1997, is in custody, as a result of that finding, of the state department of social and health services, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. The state department of social and health services shall provide notice to the adult or juvenile in its custody of the duty to register. Any adult or juvenile who has been found not guilty by reason of insanity of committing a sex offense on, before, or after February 28, 1990, but who was released before July 23, 1995, or any adult or juvenile who has been found not guilty by reason of insanity of committing a kidnapping offense but who was released before July 27, 1997, shall be required to register within twenty-four hours of receiving notice of this registration requirement. The state department of social and health services shall make reasonable attempts within available resources to notify sex offenders who were released before July 23, 1995, and kidnapping offenders who were released before July 27, 1997. Failure to register within twenty-four hours of release, or of receiving notice, constitutes a violation of this section and is punishable as provided in subsection (10) of this section.

(vii) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks a fixed residence and leaves the county in which he or she is registered and enters and remains within a new county for twenty-four hours is required to register with the county sheriff not more than twenty-four hours after entering the county and provide the information required in subsection (3)(b) of this section.

(viii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER SUPERVISION. Offenders who lack a fixed residence and who are under the supervision of the department shall register in the county of their supervision.

(ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND SCHOOL IN ANOTHER STATE. Offenders required to register in Washington, who move to another state, or who work, carry on a vocation, or attend school in another state shall register a new address, fingerprints, and photograph with the new state within ten days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. The person must also send written notice within ten days of moving to the new state or to a foreign country to the county sheriff with whom the person last registered in Washington state. The county sheriff shall promptly forward this information to the Washington state patrol.

(b) Failure to register within the time required under this section constitutes a per se violation of this section and is punishable as provided in subsection (10) of this section. The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of this section, or arraignment on charges for a violation of this section, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under this section who asserts as a defense the lack of notice of the duty to register shall register immediately following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection (4)(c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(d) The deadlines for the duty to register under this section do not relieve any sex offender of the duty to register under this section as it existed prior to July 28, 1991.

UNOFFICIAL

(5)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must send written notice of the change of address to the county sheriff within seventy-two hours of moving. If any person required to register pursuant to this section moves to a new county, the person must send written notice of the change of address at least fourteen days before moving to the county sheriff in the new county of residence and must register with that county sheriff within twenty-four hours of moving. The person must also send written notice within ten days of the change of address in the new county to the county sheriff with whom the person last registered. The county sheriff with whom the person last registered shall promptly forward the information concerning the change of address to the county sheriff for the county of the person's new residence. Upon receipt of notice of change of address to a new state, the county sheriff shall promptly forward the information regarding the change of address to the agency designated by the new state as the state's offender registration agency.

(b) It is an affirmative defense to a charge that the person failed to send a notice at least fourteen days in advance of moving as required under (a) of this subsection that the person did not know the location of his or her new residence at least fourteen days before moving. The defendant must establish the defense by a preponderance of the evidence and, to prevail on the defense, must also prove by a preponderance that the defendant sent the required notice within twenty-four hours of determining the new address.

(6)(a) Any person required to register under this section who lacks a fixed residence shall provide written notice to the sheriff of the county where he or she last registered within forty-eight hours excluding weekends and holidays after ceasing to have a fixed residence. The notice shall include the information required by subsection (3)(b) of this section, except the photograph and fingerprints. The county sheriff may, for reasonable cause, require the offender to provide a photograph and fingerprints. The sheriff shall forward this information to the sheriff of the county in which the person intends to reside, if the person intends to reside in another county.

(b) A person who lacks a fixed residence must report weekly, in person, to the sheriff of the county where he or she is registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. The county sheriff's office may require the person to list the locations where the person has stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

(c) If any person required to register pursuant to this section does not have a fixed residence, it is an affirmative defense to the charge of failure to register, that he or she provided written notice to the sheriff of the county where he or she last registered within forty-eight hours excluding weekends and holidays after ceasing to have a fixed residence and has subsequently complied with the requirements of subsections (4)(a)(vii) or (viii) and (6) of this section. To prevail, the person must prove the defense by a preponderance of the evidence.

(7) A sex offender subject to registration requirements under this section who applies to change his or her name under RCW 4.24.130 or any other law shall submit a copy of the application to the county sheriff of the county of the person's residence and to the state patrol not fewer than five days before the entry of an order granting the name change. No sex offender under the requirement to register under this section at the time of application shall be granted an order changing his or her name if the court finds that doing so will interfere with legitimate law enforcement interests, except that no order shall be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. A sex offender under the requirement to register under this section who receives an order changing his or her name shall submit a copy of the order to the county sheriff of the county of the person's residence and to the state patrol within five days of the entry of the order.

(8) The county sheriff shall obtain a photograph of the individual and shall obtain a copy of the individual's fingerprints.

(9) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540, 70.48.470, and 72.09.330:

(a) "Sex offense" means:

(i) Any offense defined as a sex offense by RCW 9.94A.030;

(ii) Any violation under RCW 9A.44.096 (sexual misconduct with a minor in the second degree);

(iii) Any violation under RCW 9.68A.090 (communication with a minor for immoral purposes);

(iv) Any federal or out-of-state conviction for an offense that under the laws of this state would be classified as a sex offense under this subsection; and

(v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030 or this subsection.

(b) "Kidnapping offense" means: (i) The crimes of kidnapping in the first degree, kidnapping in the second degree, and unlawful imprisonment, as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent; (ii) any offense that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a kidnapping offense under this subsection (9)(b); and (iii) any federal or out-of-state conviction for an offense that under the laws of this state would be classified as a kidnapping offense under this subsection (9)(b).

(c) "Employed" or "carries on a vocation" means employment that is full-time or part-time for a period of time exceeding fourteen days, or for an aggregate period of time exceeding thirty days during any calendar year. A person is employed or carries on a vocation whether the person's employment is financially compensated, volunteered, or for the purpose of government or educational benefit.

(d) "Student" means a person who is enrolled, on a full-time or part-time basis, in any public or private educational institution. An educational institution includes any secondary school, trade or professional institution, or institution of higher education.

(10)(a) A person who knowingly fails to register with the county sheriff or notify the county sheriff, or who changes his or her name without notifying the county sheriff and the state patrol, as required by this section is guilty of a class C felony if the crime for which the individual was convicted was a felony sex offense as defined in subsection (9)(a) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony sex offense as defined in subsection (9)(a) of this section.

(b) If the crime for which the individual was convicted was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.

(11)(a) A person who knowingly fails to register or who moves within the state without notifying the county sheriff as required by this section is guilty of a class C felony if the crime for which the individual was convicted was a felony kidnapping offense as defined

FINAL

in subsection (9)(b) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony kidnapping offense as defined in subsection (9)(b) of this section.

(b) If the crime for which the individual was convicted was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.

(12) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a peace officer, including a county sheriff, or law enforcement agency, for failing to release information authorized under this section.

Sec. 2. RCW 4.24.550 and 2003 c 217 s 1 are each amended to read as follows:

(1) In addition to the disclosure under subsection (5) of this section, public agencies are authorized to release information to the public regarding sex offenders and kidnapping offenders when the agency determines that disclosure of the information is relevant and necessary to protect the public and counteract the danger created by the particular offender. This authorization applies to information regarding: (a) Any person adjudicated or convicted of a sex offense as defined in RCW 9A.44.130 or a kidnapping offense as defined by RCW 9A.44.130; (b) any person under the jurisdiction of the indeterminate sentence review board as the result of a sex offense or kidnapping offense; (c) any person committed as a sexually violent predator under chapter 71.09 RCW or as a sexual psychopath under chapter 71.06 RCW; (d) any person found not guilty of a sex offense or kidnapping offense by reason of insanity under chapter 10.77 RCW; and (e) any person found incompetent to stand trial for a sex offense or kidnapping offense and subsequently committed under chapter 71.05 or 71.34 RCW.

(2) Except for the information specifically required under subsection (5) of this section, the extent of the public disclosure of relevant and necessary information shall be rationally related to: (a) The level of risk posed by the offender to the community; (b) the locations where the offender resides, expects to reside, or is regularly found; and (c) the needs of the affected community members for information to enhance their individual and collective safety.

(3) Except for the information specifically required under subsection (5) of this section, local law enforcement agencies shall consider the following guidelines in determining the extent of a public disclosure made under this section: (a) For offenders classified as risk level I, the agency shall share information with other appropriate law enforcement agencies and, if the offender is a student, the public or private school regulated under Title 28A RCW or chapter 72.40 RCW which the offender is attending, or planning to attend. The agency may disclose, upon request, relevant, necessary, and accurate information to any victim or witness to the offense and to any individual community member who lives near the residence where the offender resides, expects to reside, or is regularly found; (b) for offenders classified as risk level II, the agency may also disclose relevant, necessary, and accurate information to public and private schools, child day care centers, family day care providers, businesses and organizations that serve primarily children, women, or vulnerable adults, and neighbors and community groups near the residence where the offender resides, expects to reside, or is regularly found; (c) for offenders classified as risk level III, the agency may also disclose relevant, necessary, and accurate information to the public at large; and (d) because more localized notification is not feasible and homeless and transient offenders may present unique risks to the community, the agency may also disclose relevant, necessary, and accurate information to the public at large for offenders registered as homeless or transient.

(4) The county sheriff with whom an offender classified as risk level III is registered shall cause to be published by legal notice, advertising, or news release a sex offender community notification that conforms to the guidelines established under RCW 4.24.5501 in at least one legal newspaper with general circulation in the area of the sex offender's registered address or location. The county sheriff shall also cause to be published consistent with this subsection a current list of level III registered sex offenders, twice yearly. Unless the information is posted on the web site described in subsection (5) of this section, this list shall be maintained by the county sheriff on a publicly accessible web site and shall be updated at least once per month.

(5)(a) When funded by federal grants or other sources, the Washington association of sheriffs and police chiefs shall create and maintain a statewide registered sex offender web site, which shall be available to the public. The web site shall post all level III and level II registered sex offenders in the state of Washington.

(i) For level III offenders, the web site shall contain, but is not limited to, the registered sex offender's name, relevant criminal convictions, address by hundred block, physical description, and photograph. The web site shall provide mapping capabilities that display the sex offender's address by hundred block on a map. The web site shall allow citizens to search for registered sex offenders within the state of Washington by county, city, zip code, last name, type of conviction, and address by hundred block.

(ii) For level II offenders, the web site shall contain, but is not limited to, the same information and functionality as described in (a)(i) of this subsection, provided that it is permissible under state and federal law. If it is not permissible, the web site shall be limited to the information and functionality that is permissible under state and federal law.

(b) Until the implementation of (a) of this subsection, the Washington association of sheriffs and police chiefs shall create a web site available to the public that provides electronic links to county-operated web sites that offer sex offender registration information.

(6) Local law enforcement agencies that disseminate information pursuant to this section shall: (a) Review available risk level classifications made by the department of corrections, the department of social and health services, and the indeterminate sentence review board; (b) assign risk level classifications to all offenders about whom information will be disseminated; and (c) make a good faith effort to notify the public and residents at least fourteen days before the offender is released from confinement or, where an offender moves from another jurisdiction, as soon as possible after the agency learns of the offender's move, except that in no case may this notification provision be construed to require an extension of an offender's release date. The juvenile court shall provide local law enforcement officials with all relevant information on offenders allowed to remain in the community in a timely manner.

(7) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470, or units of local government and its employees, as provided in RCW 36.28A.010, are immune from civil liability for damages for any discretionary risk level classification decisions or release of relevant and necessary information, unless it is shown that the official, employee, or agency acted with gross negligence or in bad faith. The immunity in this section applies to risk level classification decisions and the release of relevant and necessary information regarding any individual for whom disclosure is authorized. The decision of a local law

enforcement agency or official to classify an offender to a risk level other than the one assigned by the department of corrections, the department of social and health services, or the indeterminate sentence review board, or the release of any relevant and necessary information based on that different classification shall not, by itself, be considered gross negligence or bad faith. The immunity provided under this section applies to the release of relevant and necessary information to other public officials, public employees, or public agencies, and to the general public.

(8) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a public official, public employee, or public agency for failing to release information authorized under this section.

(9) Nothing in this section implies that information regarding persons designated in subsection (1) of this section is confidential except as may otherwise be provided by law.

(10) When a local law enforcement agency or official classifies an offender differently than the offender is classified by the end of sentence review committee or the department of social and health services at the time of the offender's release from confinement, the law enforcement agency or official shall notify the end of sentence review committee or the department of social and health services and submit its reasons supporting the change in classification. Upon implementation of subsection (5)(a) of this section, notification of the change shall also be sent to the Washington association of sheriffs and police chiefs.

NEW SECTION. **Sec. 3.** The safety center of the office of the superintendent of public instruction shall review the types and amounts of training that will be necessary for principals, teachers, supervisors, and school staff to implement this act and shall report to the appropriate committees of the legislature with recommendations for training requirements not later than January 1, 2006.

NEW SECTION. **Sec. 4.** This act takes effect September 1, 2006."

On page 1, line 3 of the title, after "school;" strike the remainder of the title and insert "amending RCW 4.24.550; reenacting and amending RCW 9A.44.130; creating a new section; and providing an effective date."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 2101 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representatives Pearson and Dickerson spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of House Bill No. 2101 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 2101, as amended by the Senate and the bill passed the House by the following vote: Yeas - 96, Nays - 0, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 96.

Excused: Representatives Miloscia and Pettigrew - 2.

HOUSE BILL NO. 2101, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 12, 2005

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 2126, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature recognizes that it is important that dependent persons who are witnesses and victims of crime cooperate with law enforcement and prosecutorial agencies and that their assistance contributes to state and local enforcement efforts and the general effectiveness of the criminal justice system. The legislature finds that the state has an interest in making it possible for courts to adequately and fairly conduct cases involving dependent persons who are victims of crimes. Therefore, it is the intent of the legislature, by means of this chapter, to insure that all dependent persons who are victims and witnesses of crime are treated with sensitivity, courtesy, and special care and that their rights be protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protection afforded to other victims, witnesses, and criminal defendants.

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

(1) "Crime" means an act punishable as a felony, gross misdemeanor, or misdemeanor under the laws of this state or equivalent federal or local law.

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(2) "Dependent person" has the same meaning as that term is defined in RCW 9A.42.010.

(3) "Victim" means a living person against whom a crime has been committed.

(4) "Witness" means a person who has been or is expected to be summoned to testify for the prosecution or defense in a criminal action, or who by reason of having relevant information is subject to call or likely to be called as a witness, whether or not an action or proceeding has been commenced.

(5) "Family member" means a person who is not accused of a crime and who is an adult child, adult sibling, spouse, parent, or legal guardian of the dependent person.

(6) "Advocate" means any person not accused of a crime, including a family member, approved by the witness or victim, in consultation with his or her guardian if applicable, who provides support to a dependent person during any legal proceeding.

(7) "Court proceedings" means any court proceeding conducted during the course of the prosecution of a crime committed against a dependent person, including pretrial hearings, trial, sentencing, or appellate proceedings.

(8) "Identifying information" means the dependent person's name, address, location, and photograph, and in cases in which the dependent person is a relative of the alleged perpetrator, identification of the relationship between the dependent person and the alleged perpetrator.

(9) "Crime victim/witness program" means any crime victim and witness program of a county or local law enforcement agency or prosecutor's office, any rape crisis center's sexual assault victim advocacy program as provided in chapter 70.125 RCW, any domestic violence program's legal and community advocate program for domestic violence victims as provided in chapter 70.123 RCW, or any other crime victim advocacy program which provides trained advocates to assist crime victims during the investigation and prosecution of the crime.

NEW SECTION. **Sec. 3.** (1) In addition to the rights of victims and witnesses provided for in RCW 7.69.030, there shall be every reasonable effort made by law enforcement agencies, prosecutors, and judges to assure that dependent persons who are victims or witnesses are afforded the rights enumerated in this section. The enumeration of rights under this chapter shall not be construed to create substantive rights and duties, and the application of an enumerated right in an individual case is subject to the discretion of the law enforcement agency, prosecutor, or judge. Dependent persons who are victims or witnesses in the criminal justice system have the following rights, which apply to any criminal court or juvenile court proceeding:

(a) To have explained in language easily understood by the dependent person, all legal proceedings and police investigations in which the dependent person may be involved.

(b) With respect to a dependent person who is a victim of a sex or violent crime, to have a crime victim advocate from a crime victim/witness program, or any other advocate of the victim's choosing, present at any prosecutorial or defense interviews with the dependent person. This subsection applies unless it creates undue hardship and if the presence of the crime victim advocate or other advocate does not cause any unnecessary delay in the investigation or prosecution of the case. The role of the crime victim advocate or other advocate is to provide emotional support to the dependent person and to promote the dependent person's feelings of security and safety.

(c) To be provided, whenever possible, a secure waiting area during court proceedings and to have an advocate or support person remain with the dependent person prior to and during any court proceedings.

(d) To allow an advocate to make recommendations to the prosecuting attorney about the ability of the dependent person to cooperate with prosecution and the potential effect of the proceedings on the dependent person.

(e) To allow an advocate to provide information to the court concerning the dependent person's ability to understand the nature of the proceedings.

(f) To be provided information or appropriate referrals to social service agencies to assist the dependent person with the emotional impact of the crime, the subsequent investigation, and judicial proceedings in which the dependent person is involved.

(g) To allow an advocate to be present in court while the dependent person testifies in order to provide emotional support to the dependent person.

(h) To provide information to the court as to the need for the presence of other supportive persons at the court proceedings while the dependent person testifies in order to promote the dependent person's feelings of security and safety.

(i) To allow law enforcement agencies the opportunity to enlist the assistance of other professional personnel such as victim advocates or prosecutorial staff trained in the interviewing of the dependent person.

(j) With respect to a dependent person who is a victim of a violent or sex crime, to receive either directly or through the dependent person's legal guardian, if applicable, at the time of reporting the crime to law enforcement officials, a written statement of the rights of dependent persons as provided in this chapter. The statement may be paraphrased to make it more easily understood. The written statement shall include the name, address, and telephone number of a county or local crime victim/witness program, if such a crime victim/witness program exists in the county.

(2) Any party may request a preliminary hearing for the purpose of establishing accommodations for the dependent person consistent with, but not limited to, the rights enumerated in this section.

NEW SECTION. **Sec. 4.** (1) The prosecutor or defense may file a motion with the court at any time prior to commencement of the trial for an order authorizing the taking of a video tape deposition for the purpose of preserving the direct testimony of the moving party's witness if that witness is a dependent person.

(2) The court may grant the motion if the moving party shows that it is likely that the dependent person will be unavailable to testify at a subsequent trial. The court's finding shall be based upon, at a minimum, recommendations from the dependent person's physician or any other person having direct contact with the dependent person and whose recommendations are based on specific behavioral indicators exhibited by the dependent person.

(3) The moving party shall provide reasonable written notice to the other party of the motion and order, if granted, pursuant to superior court criminal rules for depositions.

(4) Both parties shall have an opportunity to be present at the deposition and the nonmoving party shall have the opportunity to cross-examine the dependent person.

(5) Under circumstances permitted by the rules of evidence, the deposition may be introduced as evidence in a subsequent proceeding if the dependent person is unavailable at trial and both the prosecutor and the defendant had notice of and an opportunity to participate in the taking of the deposition.

NEW SECTION. **Sec. 5.** (1) The failure to provide notice to a dependent person of the rights enumerated in this chapter or the failure to provide the rights enumerated shall not result in civil liability so long as the failure was in good faith.

(2) Nothing in this chapter shall be construed to limit a party's ability to bring an action, including an action for damages, based on rights conferred by other state or federal law.

NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act constitute a new chapter in Title 7 RCW.

NEW SECTION. **Sec. 7.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

On page 1, line 2 of the title, after "witnesses;" strike the remainder of the title and insert "and adding a new chapter to Title 7 RCW."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2126 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representatives Lantz and Priest spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed Substitute House Bill No. 2126 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 2126, as amended by the Senate and the bill passed the House by the following vote: Yeas - 96, Nays - 0, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 96.

Excused: Representatives Miloscia and Pettigrew - 2.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2126, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 6, 2005

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2173, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** DEFINITIONS. The definitions in this section apply throughout this chapter.

(1) "Dependent" means:

(a) The service member's spouse;

(b) The service member's minor child; or

(c) An individual for whom the service member provided more than one-half of the individual's support for one hundred eighty days immediately preceding an application for relief under this chapter.

(2) "Judgment" does not include temporary orders as issued by a judicial court or administrative tribunal in domestic relations cases under Title 26 RCW, including but not limited to establishment of a temporary child support obligation, creation of a temporary parenting plan, or entry of a temporary protective or restraining order.

(3) "Military service" means a service member under a call to active service authorized by the president of the United States or the secretary of defense for a period of more than thirty consecutive days.

(4) "National guard" has the meaning in RCW 38.04.010.

(5) "Service member" means any resident of Washington state that is a member of the national guard or member of a military reserve component.

NEW SECTION. **Sec. 2.** APPLICABILITY OF CHAPTER. (1) Any service member who is ordered to report for military service and his or her dependents are entitled to the rights and protections of this chapter during the period beginning on the date on which the service member receives the order and ending one hundred eighty days after termination of or release from military service.

(2) This chapter applies to any judicial or administrative proceeding commenced in any court or agency in Washington state in which a service member or his or her dependent is a defendant. This chapter does not apply to criminal proceedings.

(3) This chapter shall be construed liberally so as to provide fairness and do substantial justice to service members and their dependents.

NEW SECTION. **Sec. 3.** PROTECTION OF PERSONS SECONDARILY LIABLE. (1) Whenever pursuant to this chapter a court stays, postpones, or suspends (a) the enforcement of an obligation or liability, (b) the prosecution of a suit or proceeding, (c) the entry or enforcement of an order, writ, judgment, or decree, or (d) the performance of any other act, the court may likewise grant such a stay, postponement, or suspension to a surety, guarantor, endorser,

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accommodation maker, comaker, or other person who is or may be primarily or secondarily subject to the obligation or liability the performance or enforcement of which is stayed, postponed, or suspended.

(2) When a judgment or decree is vacated or set aside, in whole or in part, pursuant to this chapter, the court may also set aside or vacate, as the case may be, the judgment or decree as to a surety, guarantor, endorser, accommodation maker, comaker, or other person who is or may be primarily or secondarily liable on the contract or liability for the enforcement of the judgment decree.

NEW SECTION. **Sec. 4.** WAIVER OF RIGHTS PURSUANT TO WRITTEN AGREEMENT. (1) A service member may waive any of the rights and protections provided by this chapter. In the case of a waiver that permits an action described in subsection (2) of this section, the waiver is effective only if made pursuant to a written agreement of the parties that is executed during or after the service member's period of military service. The written agreement shall specify the legal instrument to which the waiver applies and, if the service member is not party to that instrument, the service member concerned.

(2) The requirement in subsection (1) of this section for a written waiver applies to the following: (a) The modification, termination, or cancellation of a contract, lease, or bailment; or an obligation secured by a mortgage, trust, deed, lien, or other security in the nature of a mortgage; and (b) the repossession, retention, foreclosure, sale, forfeiture, or taking possession of property that is security for any obligation or was purchased or received under a contract, lease, or bailment.

NEW SECTION. **Sec. 5.** PROTECTION OF SERVICE MEMBERS AGAINST DEFAULT JUDGMENTS. (1) This section applies to any civil action or proceeding in which a service member or his or her dependent is a defendant and does not make an appearance under applicable court rules or by law.

(2) In any action or proceeding covered by this section, the court, before entering judgment for the plaintiff, shall require the plaintiff to file with the court an affidavit:

(a) Stating whether the defendant is in military service, or is a dependent of a service member in military service, and showing necessary facts to support the affidavit; or

(b) If the plaintiff is unable to determine whether the defendant is in military service or is a dependent of a service member in military service, stating that the plaintiff is unable to determine whether the defendant is in military service or is a dependent of a service member in military service.

(3) If in an action covered by this section it appears that the defendant is in military service or is a dependent of a service member in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If an attorney appointed under this section to represent a service member or his or her dependent cannot locate the service member or dependent, actions by the attorney in the case do not waive any defense of the service member or dependent or otherwise bind the service member or dependent.

(4) In an action covered by this section in which the defendant is in military service or is a dependent of a service member in military service, the court shall grant a stay of proceedings until one hundred eighty days after termination of or release from military service, upon application of defense counsel, or on the court's own motion, if the court determines that:

(a) There may be a defense to the action and a defense cannot be presented without presence of the defendant; or

(b) After due diligence, counsel has been unable to contact the defendant or otherwise determine if a meritorious defense exists.

(5) No bar to entry of judgment under subsection (3) of this section or requirement for grant of stay under subsection (4) of this section precludes the entry of temporary orders in domestic relations cases. If a court or administrative tribunal enters a temporary order as allowed under this subsection, it shall include a finding that failure to act, despite the absence of the service member, would result in manifest injustice to the other interested parties. Temporary orders issued without the service member's participation shall not set any precedent for the final disposition of the matters addressed therein.

(6) If a service member or dependent who is a defendant in an action covered by this section receives actual notice of the action, the service member or dependent may request a stay of proceedings pursuant to section 6 of this act.

(7) A person who makes or uses an affidavit permitted under this section knowing it to be false, is guilty of a class C felony.

(8) If a default judgment is entered in an action covered by this section against a service member or his or her dependent during the service member's period of military service or within one hundred eighty days after termination of or release from military service, the court entering the judgment shall, upon application by or on behalf of the service member or his or her dependent, reopen the judgment for the purpose of allowing the service member or his or her dependent to defend the action if it appears that:

(a) The service member or dependent was materially affected by reason of that military service in making a defense to the action; and

(b) The service member or dependent has a meritorious or legal defense to the action or some part of it.

(9) If a court vacates, sets aside, or reverses a default judgment against a service member or his or her dependent and the vacating, setting aside, or reversing is because of a provision of this chapter, that action does not impair a right or title acquired by a bona fide purchaser for value.

NEW SECTION. **Sec. 6.** STAY OF PROCEEDINGS WHEN SERVICE MEMBER HAS NOTICE. (1) This section applies to any civil action or proceeding in which a defendant at the time of filing an application under this section:

(a)(i) Is in military service, or it is within one hundred eighty days after termination of or release from military service; or

(ii) Is a dependent of a service member in military service; and

(b) Has received actual notice of the action or proceeding.

(2) At any stage before final judgment in a civil action or proceeding in which a service member or his or her dependent described in subsection (1) of this section is a party, the court may on its own motion and shall, upon application by the service member or his or her dependent, stay the action until one hundred eighty days after termination of or release from military service, if the conditions in subsection (3) of this section are met.

(3) An application for a stay under subsection (2) of this section shall include the following:

(a) A letter or other communication setting forth facts stating the manner in which current military duty requirements materially affect the service member's or dependent's ability to appear and stating a date when the service member or dependent will be available to appear; and

(b) A letter or other communication from the service member's commanding officer stating that the service member's current military duty prevents either the service member's or dependent's appearance

and that military leave is not authorized for the service member at the time of the letter.

(4) An application for a stay under this section does not constitute an appearance for jurisdictional purposes and does not constitute a waiver of any substantive or procedural defense, including a defense relating to lack of personal jurisdiction.

(5) A service member or dependent who is granted a stay of a civil action or proceeding under subsection (2) of this section may apply for an additional stay based on the continuing material affect of military duty on the service member's or dependent's ability to appear. Such application may be made by the service member or his or her dependent at the time of the initial application under subsection (2) of this section or when it appears that the service member or his or her dependent is unable to prosecute or defend the action. The same information required under subsection (3) of this subsection shall be included in an application under this subsection.

(6) If the court refuses to grant an additional stay of proceedings under subsection (2) of this section, the court shall appoint counsel to represent the service member or his or her dependent in the action or proceeding.

(7) A service member or dependent who applies for a stay under this section and is unsuccessful may not seek the protections afforded by section 5 of this act.

NEW SECTION. **Sec. 7.** FINES AND PENALTIES UNDER CONTRACTS. (1) If an action for compliance with the terms of a contract is stayed pursuant to this chapter, a penalty shall not accrue for failure to comply with the terms of the contract during the period of the stay.

(2) If a service member or his or her dependent fails to perform an obligation arising under a contract and a penalty is incurred arising from that nonperformance, a court may reduce or waive the fine or penalty if:

(a)(i) The service member was in military service at the time the fine or penalty was incurred; or

(ii) The action is against a dependent of the service member and the service member was in military service at the time the fine or penalty was incurred; and

(b) The ability of the service member or dependent to perform the obligation was materially affected by the military service.

NEW SECTION. **Sec. 8.** CODEFENDANTS. If the service member or his or her dependent is a codefendant with others who are not in military service and who are not entitled to the relief and protections provided under this chapter, the plaintiff may proceed against those other defendants with the approval of the court.

NEW SECTION. **Sec. 9.** STATUTE OF LIMITATIONS. (1) The period of a service member's military service may not be included in computing any period limited by law, rule, or order, for the bringing of any action or proceeding in a court, or in any board bureau, commission, department, or other agency of a state, or political subdivision of a state, or the United States by or against the service member or the service member's dependents, heirs, executors, administrators, or assigns.

(2) A period of military service may not be included in computing any period provided by law for the redemption of real property sold or forfeited to enforce an obligation, tax, or assessment.

(3) This section does not apply to any period of limitation prescribed by or under the internal revenue laws of the United States.

NEW SECTION. **Sec. 10.** INAPPROPRIATE USE OF CHAPTER. If a court determines, in any proceeding to enforce a civil right, that any interest, property, or contract has been transferred or acquired with the intent to delay the just enforcement of such right by taking advantage of this chapter, the court shall enter such judgment or make such order as might lawfully be entered or made concerning such transfer or acquisition.

NEW SECTION. **Sec. 11.** This chapter may be known and cited as the Washington service members' civil relief act.

NEW SECTION. **Sec. 12.** Captions used in this act are no part of the law.

NEW SECTION. **Sec. 13.** Sections 1 through 12 of this act constitute a new chapter in Title 38 RCW.

NEW SECTION. **Sec. 14.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 15.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 1 of the title, after "relief;" strike the remainder of the title and insert "adding a new chapter to Title 38 RCW; prescribing penalties; and declaring an emergency."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2173 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representatives Serben and Williams spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 2173 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2173, as amended by the Senate and the bill passed the House by the following vote: Yeas - 96, Nays - 0, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson,

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Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 96.

Excused: Representatives Miloscia and Pettigrew - 2.

SUBSTITUTE HOUSE BILL NO. 2173, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 14, 2005

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 2189, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that efforts to protect children from abuse and neglect and support families are dependent upon the efforts of staff in the field who work directly with the children and families of this state. Child protective services staff investigate reports of suspected child abuse and neglect and, when necessary, intervene by providing services designed to increase children's safety and protect them from further harm. Child welfare services staff provide longer-term services to families, including intensive treatment services to children and families who may need help with chronic or serious problems that interfere with their ability to protect or parent children.

The legislature determines that in order to perform their work, the safety of child protective services and child welfare services staff must be addressed.

NEW SECTION. **Sec. 2.** (1) The department of social and health services shall establish a work group to develop policies and protocols to address the safety of child protective services and child welfare services staff.

(2) The department of social and health services shall make recommendations regarding training to address recognition of highly volatile, hostile, and/or threatening situations and de-escalation and preventive safety measures.

(3) Membership of the work group shall include the following: Representatives of the children's administration of the department of social and health services, including representatives of child protective services staff and child welfare services staff from community service offices in largely rural areas of the state as well as urban areas; law enforcement; and prosecuting attorneys.

(4) The department of social and health services shall provide the developed recommendations, policies, and protocols to the governor and the appropriate committees of the legislature by December 1, 2005."

On page 1, line 2 of the title, after "staff;" strike the remainder of the title and insert "and creating new sections."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 2189 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representatives Kagi and Hinkle spoke in favor the passage of the bill.

The Speaker stated the question before the House to be final passage of House Bill No. 2189 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 2189, as amended by the Senate and the bill passed the House by the following vote: Yeas - 96, Nays - 0, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 96.

Excused: Representatives Miloscia, and Pettigrew - 2.

HOUSE BILL NO. 2189, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 12, 2005

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1987, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.655 RCW to read as follows:

By January 15, 2006, the office of the superintendent of public instruction, as part of any feasibility study of options for the alternative assessments under RCW 28A.655.061(11), shall review the course requirements and assessments in one or more representative career and technical programs that lead to industry certification to determine the alignment of the courses and assessments with the essential academic learning requirements measured in the high school Washington assessment of student learning. The purpose of the review is to determine if the certifications can be used as evidence that a student has met the standards measured by the Washington assessment of student learning. The review also shall evaluate the statewide availability and use of the certifications. As part of the review, the superintendent shall make a determination of the extent to which the certifications are equivalent in rigor to the reading, writing, mathematics, or science Washington assessments of student learning, and whether they should be used as alternative assessments. The superintendent also shall develop a process for reviewing additional industry certification programs after the initial review.

Sec. 2. RCW 28A.655.061 and 2004 c 19 s 101 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 (11) of this section,~~)) one or more objective alternative assessments for a student to demonstrate achievement of state academic standards, and any appeals process. The objective alternative assessments for each content area shall be ((~~comparable~~)) equivalent 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, 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~~)) implemented pursuant to subsection (11) 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 retaken 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. The student's transcript shall note whether the certificate of academic achievement was acquired by means of the Washington assessment of student learning or by an alternative assessment.

(4) Beginning with the graduating class of 2010, 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.

(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. A student may combine content area results from the Washington assessment of student learning and any subsequent retakes of the assessment and results from any alternative assessments to demonstrate achievement of state academic standards.

(7) Beginning with the graduating class of 2006, the highest scale score and level achieved in each content area on the high school Washington assessment of student learning shall be displayed on a student's transcript. In addition, beginning with the graduating class of 2008, each student shall receive a scholar's designation on his or her transcript for each content area in which the student achieves level four the first time the student takes that content area assessment.

(8) Beginning in 2006, 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.

(9) 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.

(10) Subject to available funding, the superintendent shall pilot opportunities for retaking the high school assessment beginning in the 2004-05 school year. Beginning no later than September 2006, opportunities to retake the assessment at least twice a year shall be available to each school district.

(11)(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 to demonstrate achievement of the state academic standards. The objective alternative assessments shall be ((~~comparable~~)) equivalent 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 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~~)) superintendent of public instruction shall provide to the education committees of the legislature an opportunity to review any and all options developed and planned for implementation by January 15th of the school year before the school year planned for implementation.

(b) The office of the superintendent of public instruction shall pilot two or more alternative assessments in the 2005-06 school year, with the goal of implementing at least one alternative assessment in the 2006-07 school year. The superintendent of public instruction shall direct school districts to make available for student use any alternative assessments reviewed by the education committees of the legislature and deemed adequate by the superintendent of public instruction for implementation. The implementation shall begin with options that are complete and, to the extent funds are appropriated, the office of the superintendent of public instruction shall continue to develop, pilot, and implement additional alternative assessments. In its development and implementation of alternative assessments, the office of the superintendent of public instruction shall consult with parents, administrators, practicing classroom teachers including teachers in career and technical education, practicing principals, employers, tribal representatives from federally recognized tribes of Washington state and tribes that have signed the Washington state centennial accord, appropriate agencies, professional organizations, assessment experts, and other interested parties.

(12) ((~~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~~)) The office of the superintendent of public instruction shall develop appeals processes for use by students no later than the 2007-08 school year. The appeals processes shall be developed with criteria that can be consistently applied throughout the state.

(13) 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 students as provided in this subsection (13).

(a) Student learning plans are required for eighth through twelfth grade students who ((~~were not successful~~)) did not score the level of proficient or above on any or all of the content areas of the Washington assessment for student learning during the previous school year. The plan shall include the courses, competencies, and other steps needed to be taken by the student to meet state academic standards and stay on track for graduation. This requirement shall be phased in as follows:

(i) Beginning no later than the 2004-05 school year ninth grade students as described in this subsection (13)(a) shall have a plan.

(ii) Beginning no later than the 2005-06 school year and every year thereafter eighth grade students as described in this subsection (13)(a) shall have a plan.

(iii) The parent or guardian 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~~)) not proficient, strategies to help them improve their student's skills, and the content of the student's plan.

(iv) 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.

(b) Beginning with the 2005-06 school year and every year thereafter, all fifth grade students who ((~~were not successful~~)) did not score the level of proficient or above 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 a student described in this subsection (13)(b) 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~~)) not proficient, 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.

(14) Beginning in the 2005-06 school year and every year thereafter, each public high school shall notify students and parents, in the primary language of parents to the extent practicable, of the options under the high school assessment system and any appeals processes for students to demonstrate achievement of the state academic standards.

(15) Beginning in the 2005-06 school year and every year thereafter, each public high school shall notify students and parents, in the primary language of parents to the extent practicable, of the different courses and programs in career and technical education and those offered through area skill centers that provide students the skills and knowledge in those content areas assessed by the high school assessment system and included in the certificate of academic achievement."

On page 1, line 1 of the title, after "assessments;" strike the remainder of the title and insert "and adding a new section to chapter 28A.655 RCW."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

SPEAKER'S RULING

The Speaker (Representative Lovick presiding): A Scope & Object ruling has been requested. Substitute House Bill No. 1987 is entitled an act relating to "alternative assessments". The bill as passed by the House directs the Superintendent of Public Instruction to examine a career and technical alternative to the high school Washington Assessment of Student Learning.

The Senate amendment includes the feasibility study found in the House bill, but also directs the establishment of pilot projects and an appeal process, removes the requirement for legislative approval of alternative assessments and an appeal process, and establishes standards for notifying parents of student options under the assessment system and of different courses and programs available.

While both the House and Senate versions of the bill relate to a career and technical alternative to the WASL, the House bill was narrowly drawn to encompass only a feasibility

study. The Senate amendments make programmatic changes beyond the requirement for this study.

The Speaker therefore finds that the Senate amendment is beyond the scope and object of the bill as passed by the House.

The point of order is well taken."

There being no objection, the House refused to concur in the Senate amendments to SUBSTITUTE HOUSE BILL NO. 1987, and asked the Senate to recede therefrom.

The Speaker assumed the chair.

SIGNED BY THE SPEAKER

The Speaker signed:

HOUSE BILL NO. 1915,
ENGROSSED HOUSE BILL NO. 2255,

The Speaker called upon Representative Lovick to preside.

MESSAGES FROM THE SENATE

April 18, 2005

Mr. Speaker:

The President has signed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5121,
SUBSTITUTE SENATE BILL NO. 5169,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5186,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5415,
ENGROSSED SENATE BILL NO. 5423,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

April 18, 2005

Mr. Speaker:

The President has signed:

SUBSTITUTE SENATE BILL NO. 5038,
SUBSTITUTE SENATE BILL NO. 5042,
SUBSTITUTE SENATE BILL NO. 5064,
SENATE BILL NO. 5127,
SUBSTITUTE SENATE BILL NO. 5139,
SENATE BILL NO. 5254,
SUBSTITUTE SENATE BILL NO. 5449,
SUBSTITUTE SENATE BILL NO. 5767,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

April 19, 2005

Mr. Speaker:

The Senate concurred in the House amendments to ENGROSSED SUBSTITUTE SENATE BILL NO. 5395, and passed the bills as amended by the House, and the same is herewith transmitted.

Thomas Hoemann, Secretary

April 19, 2005

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6104, and the same is herewith transmitted.

Thomas Hoemann, Secretary

April 19, 2005

Mr. Speaker:

The President has signed ENGROSSED HOUSE BILL NO. 2255, and the same is herewith transmitted.

Thomas Hoemann, Secretary

April 19, 2005

Mr. Speaker:

The President has signed HOUSE BILL NO. 1915, and the same is herewith transmitted.

Thomas Hoemann, Secretary

SENATE AMENDMENTS TO HOUSE BILL

April 15, 2005

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1893, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that the quality of education for children who are deaf or hard of hearing and the expectations for those children's achievement should be equivalent to those for children throughout the state. The legislature also finds that deaf and hard of hearing children can benefit greatly if they are taught by an educator who is trained to understand the learning and communication issues the children face. Educators who received teacher training in a program for the deaf and hard of hearing are sensitive to the needs of deaf and hard of hearing students and are able to provide appropriate strategies to assist students in reacting to and interacting with their environment. The legislature intends to assist school districts in their efforts to attract teachers who are especially trained to work with deaf and hard of hearing students by directing the state board of education to establish a certification endorsement for teachers of the deaf and hard of hearing.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.410 RCW to read as follows:

The state board of education, with advice from the professional educator standards board, shall develop certification endorsement requirements for teachers of deaf and hard of hearing students. The endorsement shall be focused on the specific skills and knowledge necessary to serve the education and communication needs of deaf and hard of hearing students. In establishing rules for the endorsement of teachers who will be working almost exclusively with students who are deaf or hard of hearing, the state board of education shall consider applicants to have met state endorsement requirements

draft

if they possess a baccalaureate or master's degree in deaf education from a teacher training program approved by the council on education of the deaf.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.410 RCW to read as follows:

The definitions in this section apply throughout sections 4 and 5 of this act unless the context clearly requires otherwise.

(1) "Educational interpreters" means school district employees providing sign language translation and further explanation of concepts introduced by the teacher for students who are deaf, deaf-blind, or hard of hearing.

(2) "Educational interpreter written and performance assessment" means a national performance assessment offered by a national organization of professional sign language interpreters and transliterators, that is designed to evaluate more than one sign system or language.

NEW SECTION. **Sec. 4.** A new section is added to chapter 28A.410 RCW to read as follows:

(1) By 2009, educational interpreters must have completed the educational interpreter written and performance assessments, and must achieve the standard on both, established by the office of the superintendent of public instruction. For those interpreters not achieving the established standard, the interpreter must continue training until he or she is able to pass the assessments.

(2) By 2012, all educational interpreters must pass the written assessment, meet the standard on the educational interpreter performance assessment, and become nationally certified by the national association of the deaf registry of interpreters for the deaf.

NEW SECTION. **Sec. 5.** A new section is added to chapter 28A.410 RCW to read as follows:

(1) The state board of education, with advice from the professional educator standards board, shall develop educational staff associate certification requirements for educational interpreters of deaf and hard of hearing students. The certification shall focus on the specific skills and knowledge necessary to serve the educational and communication needs of deaf and hard of hearing students.

(2) In establishing rules of the educational staff associate certification for educational interpreters who will be working almost exclusively with students who are deaf or hard of hearing, the state board of education shall consider applicants to have met state endorsement requirements if they:

(a) Hold national certification and pass the educational interpreter performance assessment and written test at the standard established by the office of superintendent of public instruction; and

(b) Hold a bachelor's degree in education or educational interpreting from a regionally accredited institution of higher education; or a bachelor's degree in another field of study unrelated to education, from a regionally accredited institution of higher education and thirty hours of course work in education.

(3) The state board of education may adopt rules to implement this section."

On page 1, line 2 of the title, after "hearing;" strike the remainder of the title and insert "adding new sections to chapter 28A.410 RCW; and creating a new section."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House refused to concur in the Senate Amendment to SUBSTITUTE HOUSE BILL NO. 1893 and asked the Senate to recede therefrom.

SENATE AMENDMENTS TO HOUSE BILL

April 15, 2005

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1708, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. .1** A new section is added to chapter 28A.175 RCW to read as follows:

The superintendent of public instruction shall review and evaluate promising programs and practices for dropout prevention. The superintendent may consult with education administrators and providers, parents, students, and researchers as appropriate, and shall include in the review dropout prevention programs using nonpunitive approaches to school discipline. The superintendent shall report to the legislature by December 1, 2005, and recommend:

(1) The most promising comprehensive dropout prevention programs and practices that encompass school-wide or district-wide restructuring of the delivery of educational services;

(2) The most promising targeted dropout prevention programs and practices designed to provide social and other services in coordination with educational services to students who are at risk of dropping out due to the presence of family, personal, economic, or cultural circumstances; and

(3) Policy and other changes to enhance the ability of career and technical education and skills center programs to further contribute to dropout prevention efforts.

NEW SECTION. **Sec. 2.** (1) To the extent funds are appropriated, the office of the superintendent of public instruction in conjunction with the administrative office of the courts, shall convene a work group to evaluate the following:

(a) Review the implementation of the Becca bill and other school attendance measures to determine their consistent application across the state and their conformance with state law;

(b) The definition of excused and unexcused absences;

(c) Creating incentives for school districts to improve student attendance; and

(d) Related data collection requirements on graduation, dropouts, student transfer, and other issues related to student attendance.

(2) The work group shall include representatives of the following groups, agencies, and organizations:

(a) The office of the superintendent of public instruction;

(b) The state board of education;

(c) Teachers;

(d) School administrators;

(e) School counselors;

(f) Truancy officers and truancy board members;

(g) The administrator for the courts;

(h) Court judges;

(i) Prosecuting attorneys;

(j) The office of attorney general;

(k) Institutions of higher education;

(l) Members of the legislature; and

(m) Other interested education organizations and personnel.

(3) The office of the superintendent of public instruction shall report the findings of the work group under this section to the governor, the state board of education, and the legislature no later than January 10, 2006.

Sec. 3. RCW 28A.175.010 and 1991 c 235 s 4 are each amended to read as follows:

Each school district shall account for the educational progress of each of its students. To achieve this, school districts shall be required to report annually to the superintendent of public instruction:

(1) For students enrolled in each of a school district's high school programs:

(a) The number of students ((~~eligible for graduation~~)) who graduate in fewer than four years;

(b) The number of students who graduate in four years;

(c) The number of students who remain in school for more than four years but who eventually graduate and the number of students who remain in school for more than four years but do not graduate;

(d) The number of students who transfer to other schools;

(e) ((~~The number of students who enter from other schools;~~

~~(f)~~)) The number of students in the ninth through twelfth grade who drop out of school over a four-year period; and

(((~~g~~))) (f) The number of students whose status is unknown.

(2) Dropout rates of students in each of the grades ((~~nine~~)) seven through twelve.

(3) Dropout rates for student populations in each of the grades ((~~nine~~)) seven through twelve by:

(a) Ethnicity;

(b) Gender;

(c) Socioeconomic status; and

(d) Disability status.

(4) The causes or reasons, or both, attributed to students for having dropped out of school in grades ((~~nine~~)) seven through twelve.

(5) The superintendent of public instruction shall adopt rules under chapter 34.05 RCW to assure uniformity in the information districts are required to report under subsections (1) through (4) of this section. In developing rules, the superintendent of public instruction shall consult with school districts, including administrative and counseling personnel, with regard to the methods through which information is to be collected and reported.

(6) In reporting on the causes or reasons, or both, attributed to students for having dropped out of school, school building officials shall, to the extent reasonably practical, obtain such information directly from students. In lieu of obtaining such information directly from students, building principals and counselors shall identify the causes or reasons, or both, based on their professional judgment.

(7) The superintendent of public instruction shall report annually to the legislature the information collected under subsections (1) through (4) of this section."

On page 1, line 1 of the title, after "prevention;" strike the remainder of the title and insert "amending RCW 28A.175.010; adding a new section to chapter 28A.175 RCW; and creating a new section."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House refused to concur in the Senate Amendment to SUBSTITUTE HOUSE BILL NO. 1708 and asked the Senate to recede therefrom.

MESSAGE FROM THE SENATE

April 16, 2005

Mr. Speaker:

The Senate refuses to concur in the House amendments to SUBSTITUTE SENATE BILL NO. 5042 and asks the House to recede therefrom.

Thomas Hoemann, Secretary

There being no objection, the House insisted on its position in its amendments to SUBSTITUTE SENATE BILL NO. 5042 and asked the Senate to concur therein.

SENATE AMENDMENTS TO HOUSE BILL

April 14, 2005

Mr. Speaker:

The Senate has passed ENGROSSED HOUSE BILL NO. 1003, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that off-road recreational vehicles (ORVs) provide opportunities for a wide variety of outdoor recreation activities. The legislature further finds that the limited amount of ORV recreation areas presents a challenge for ORV recreational users, natural resource land managers, and private landowners. The legislature further finds that many nonhighway roads provide opportunities for ORV use and that these opportunities may reduce conflicts between users and facilitate responsible ORV recreation. However, restrictions intended for motor vehicles may prevent ORV use on certain roads, including forest service roads. Therefore, the legislature finds that local, state, and federal jurisdictions should be given the flexibility to allow ORV use on nonhighway roads they own and manage or for which they are authorized to allow public ORV use under an easement granted by the owner. Nothing in this act authorizes trespass on private property.

Sec. 2. RCW 46.09.010 and 1972 ex.s. c 153 s 2 are each amended to read as follows:

The provisions of this chapter shall apply to all lands in this state. Nothing in this chapter ((~~43.09 RCW~~)), RCW ((~~67.32.050, 67.32.080, 67.32.100, 67.32.130 or 67.32.140~~)) 79A.35.040, 79A.35.070, 79A.35.090, 79A.35.110, and 79A.35.120 shall be deemed to grant to any person the right or authority to enter upon private property without permission of the property owner.

Sec. 3. RCW 46.09.120 and 2003 c 377 s 1 are each amended to read as follows:

(1) It is a traffic infraction for any person to operate any nonhighway vehicle:

(a) In such a manner as to endanger the property of another;

(b) On lands not owned by the operator or owner of the nonhighway vehicle without a lighted headlight and taillight between the hours of dusk and dawn, or when otherwise required for the safety of others regardless of ownership;

(c) On lands not owned by the operator or owner of the nonhighway vehicle without an adequate braking device or when otherwise required for the safety of others regardless of ownership;

(d) Without a spark arrester approved by the department of natural resources;

(e) Without an adequate, and operating, muffling device which effectively limits vehicle noise to no more than eighty-six decibels on the "A" scale at fifty feet as measured by the Society of Automotive Engineers (SAE) test procedure J 331a, except that a maximum noise level of one hundred and five decibels on the "A" scale at a distance of twenty inches from the exhaust outlet shall be an acceptable substitute in lieu of the Society of Automotive Engineers test procedure J 331a when measured:

(i) At a forty-five degree angle at a distance of twenty inches from the exhaust outlet;

(ii) With the vehicle stationary and the engine running at a steady speed equal to one-half of the manufacturer's maximum allowable ("red line") engine speed or where the manufacturer's maximum allowable engine speed is not known the test speed in revolutions per minute calculated as sixty percent of the speed at which maximum horsepower is developed; and

(iii) With the microphone placed ten inches from the side of the vehicle, one-half way between the lowest part of the vehicle body and the ground plane, and in the same lateral plane as the rearmost exhaust outlet where the outlet of the exhaust pipe is under the vehicle;

(f) On lands not owned by the operator or owner of the nonhighway vehicle upon the shoulder or inside bank or slope of any nonhighway road or highway, or upon the median of any divided highway;

(g) On lands not owned by the operator or owner of the nonhighway vehicle in any area or in such a manner so as to unreasonably expose the underlying soil, or to create an erosion condition, or to injure, damage, or destroy trees, growing crops, or other vegetation;

(h) On lands not owned by the operator or owner of the nonhighway vehicle or on any nonhighway road or trail, when these are restricted to pedestrian or animal travel; ((~~and~~))

(i) On any public lands in violation of rules and regulations of the agency administering such lands; and

(j) On a private nonhighway road in violation of section 4(3) of this act.

(2) It is a misdemeanor for any person to operate any nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance.

(3)(a) Except for an off-road vehicle equipped with seat belts and roll bars or an enclosed passenger compartment, it is a traffic infraction for any person to operate or ride an off-road vehicle on a nonhighway road without wearing upon his or her head a motorcycle helmet fastened securely while in motion. For purposes of this section, "motorcycle helmet" has the same meaning as provided in RCW 46.37.530.

(b) Subsection (3)(a) of this section does not apply to an off-road vehicle operator operating on his or her own land.

(c) Subsection (3)(a) of this section does not apply to an off-road vehicle operator operating on agricultural lands owned or leased by the off-road vehicle operator or the operator's employer.

NEW SECTION. **Sec. 4.** A new section is added to chapter 46.09 RCW to read as follows:

(1) Except as otherwise provided in this section, it is lawful to operate an off-road vehicle upon a nonhighway road and in parking areas serving designated off-road vehicle areas if the state, federal, local, or private authority responsible for the management of the nonhighway road authorizes the use of off-road vehicles.

(2) Operations of an off-road vehicle on a nonhighway road under this section is exempt from licensing requirements of RCW 46.16.010 and vehicle lighting and equipment requirements of chapter 46.37 RCW.

(3) It is unlawful to operate an off-road vehicle upon a private nonhighway road if the road owner has not authorized the use of off-road vehicles.

(4) Nothing in this section authorizes trespass on private property.

NEW SECTION. **Sec. 5.** A new section is added to chapter 46.09 RCW to read as follows:

(1) Except as specified in subsection (2) of this section, no person under thirteen years of age may operate an off-road vehicle on or across a highway or nonhighway road in this state.

(2) Persons under thirteen years of age may operate an off-road vehicle on a nonhighway road designated for off-road vehicle use under the direct supervision of a person eighteen years of age or older possessing a valid license to operate a motor vehicle under chapter 46.20 RCW.

Sec. 6. RCW 46.16.010 and 2003 c 353 s 8 and 2003 c 53 s 238 are each reenacted and amended to read as follows:

(1) It is unlawful for a person to operate any vehicle over and along a public highway of this state without first having obtained and having in full force and effect a current and proper vehicle license and display vehicle license number plates therefor as by this chapter provided.

(2) Failure to make initial registration before operation on the highways of this state is a misdemeanor, and any person convicted thereof must be punished by a fine of no less than three hundred thirty dollars, no part of which may be suspended or deferred.

(3) Failure to renew an expired registration before operation on the highways of this state is a traffic infraction.

(4) The licensing of a vehicle in another state by a resident of this state, as defined in RCW 46.16.028, evading the payment of any tax or license fee imposed in connection with registration, is a gross misdemeanor punishable as follows:

(a) For a first offense, up to one year in the county jail and a fine equal to twice the amount of delinquent taxes and fees, no part of which may be suspended or deferred;

(b) For a second or subsequent offense, up to one year in the county jail and a fine equal to four times the amount of delinquent taxes and fees, no part of which may be suspended or deferred;

(c) For fines levied under (b) of this subsection, an amount equal to the avoided taxes and fees owed will be deposited in the vehicle licensing fraud account created in the state treasury;

(d) The avoided taxes and fees shall be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion.

(5) These provisions shall not apply to the following vehicles:

(a) Motorized foot scooters;

(b) Electric-assisted bicycles;

(c) Off-road vehicles operating on nonhighway roads under section 4 of this act;

(d) Farm vehicles if operated within a radius of fifteen miles of the farm where principally used or garaged, farm tractors and farm implements including trailers designed as cook or bunk houses used exclusively for animal herding temporarily operating or drawn upon the public highways, and trailers used exclusively to transport farm implements from one farm to another during the daylight hours or at night when such equipment has lights that comply with the law;

(((~~(d)~~))) (e) Spray or fertilizer applicator rigs designed and used exclusively for spraying or fertilization in the conduct of agricultural operations and not primarily for the purpose of transportation, and nurse rigs or equipment auxiliary to the use of and designed or modified for the fueling, repairing, or loading of spray and fertilizer applicator rigs and not used, designed, or modified primarily for the purpose of transportation;

(((~~(e)~~))) (f) Fork lifts operated during daylight hours on public highways adjacent to and within five hundred feet of the warehouses which they serve: PROVIDED FURTHER, That these provisions shall not apply to vehicles used by the state parks and recreation commission exclusively for park maintenance and operations upon public highways within state parks;

(((~~(f)~~))) (g) "Special highway construction equipment" defined as follows: Any vehicle which is designed and used primarily for grading of highways, paving of highways, earth moving, and other construction work on highways and which is not designed or used primarily for the transportation of persons or property on a public highway and which is only incidentally operated or moved over the highway. It includes, but is not limited to, road construction and maintenance machinery so designed and used such as portable air compressors, air drills, asphalt spreaders, bituminous mixers, bucket loaders, track laying tractors, ditchers, leveling graders, finishing machines, motor graders, paving mixers, road rollers, scarifiers, earth moving scrapers and carryalls, lighting plants, welders, pumps, power shovels and draglines, self-propelled and tractor-drawn earth moving equipment and machinery, including dump trucks and tractor-dump trailer combinations which either (i) are in excess of the legal width, or (ii) which, because of their length, height, or unladen weight, may not be moved on a public highway without the permit specified in RCW 46.44.090 and which are not operated laden except within the boundaries of the project limits as defined by the contract, and other similar types of construction equipment, or (iii) which are driven or moved upon a public highway only for the purpose of crossing such highway from one property to another, provided such movement does not exceed five hundred feet and the vehicle is equipped with wheels or pads which will not damage the roadway surface.

Exclusions:

"Special highway construction equipment" does not include any of the following:

Dump trucks originally designed to comply with the legal size and weight provisions of this code notwithstanding any subsequent modification which would require a permit, as specified in RCW 46.44.090, to operate such vehicles on a public highway, including trailers, truck-mounted transit mixers, cranes and shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

(6) The following vehicles, whether operated solo or in combination, are exempt from license registration and displaying license plates as required by this chapter:

(a) A converter gear used to convert a semitrailer into a trailer or a two-axle truck or tractor into a three or more axle truck or tractor or used in any other manner to increase the number of axles of a vehicle. Converter gear includes an auxiliary axle, booster axle, dolly, and jeep axle.

(b) A tow dolly that is used for towing a motor vehicle behind another motor vehicle. The front or rear wheels of the towed vehicle are secured to and rest on the tow dolly that is attached to the towing vehicle by a tow bar.

Sec. 7. RCW 46.37.010 and 1997 c 241 s 14 are each amended to read as follows:

(1) It is a traffic infraction for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person, or which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this chapter or in regulations issued by the chief of the Washington state patrol, or which is equipped in any manner in violation of this chapter or the state patrol's regulations, or for any person to do any act forbidden or fail to perform any act required under this chapter or the state patrol's regulations.

(2) Nothing contained in this chapter or the state patrol's regulations shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter or the state patrol's regulations.

(3) The provisions of the chapter and the state patrol's regulations with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers, or farm tractors except as herein made applicable.

(4) No owner or operator of a farm tractor, self-propelled unit of farm equipment, or implement of husbandry shall be guilty of a crime or subject to penalty for violation of RCW 46.37.160 as now or hereafter amended unless such violation occurs on a public highway.

(5) It is a traffic infraction for any person to sell or offer for sale vehicle equipment which is required to be approved by the state patrol as prescribed in RCW 46.37.005 unless it has been approved by the state patrol.

(6) The provisions of this chapter with respect to equipment required on vehicles shall not apply to motorcycles or motor-driven cycles except as herein made applicable.

(7) This chapter does not apply to off-road vehicles used on nonhighway roads.

(8) This chapter does not apply to vehicles used by the state parks and recreation commission exclusively for park maintenance and operations upon public highways within state parks.

(((~~(8)~~))) (9) Notices of traffic infraction issued to commercial drivers under the provisions of this chapter with respect to equipment required on commercial motor vehicles shall not be considered for driver improvement purposes under chapter 46.20 RCW.

(((~~(9)~~))) (10) Whenever a traffic infraction is chargeable to the owner or lessee of a vehicle under subsection (1) of this section, the driver shall not be arrested or issued a notice of traffic infraction unless the vehicle is registered in a jurisdiction other than Washington state, or unless the infraction is for an offense that is clearly within the responsibility of the driver.

(((~~(10)~~))) (11) Whenever the owner or lessee is issued a notice of traffic infraction under this section the court may, on the request of the owner or lessee, take appropriate steps to make the driver of the vehicle, or any other person who directs the loading, maintenance, or operation of the vehicle, a codefendant. If the codefendant is held solely responsible and is found to have committed the traffic infraction, the court may dismiss the notice against the owner or lessee.

FINAL

NEW SECTION. **Sec. 8.** (1)(a) A task force on off-road vehicle noise management is established. The task force consists of the following members:

(i) Two members from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives;

(ii) Two members from each of the two largest caucuses of the senate, appointed by the president of the senate; and

(iii) Participants invited by the legislative members, including but not limited to persons representing the following:

(A) Three county commissioners, one representing counties with a population of two hundred thousand or more people and two representing counties with populations of fewer than two hundred thousand people;

(B) A representative of port districts;

(C) A representative of the department of natural resources, selected by the commissioner of public lands;

(D) A representative of the department of ecology, selected by the director of ecology;

(E) A representative of the interagency committee for outdoor recreation, selected by the director of the committee;

(F) A representative of the parks and recreation commission, selected by the director of the commission;

(G) A person representing manufacturers of off-road vehicles;

(H) A representative of the United States forest service;

(I) Recreational users; and

(J) Interested citizens.

(b) The committee shall choose its chair from among its membership.

(2) The committee shall review the following issues:

(a) The appropriateness and enforceability of current decibel requirements for off-road vehicles;

(b) The appropriateness of any off-road vehicle usage requirements
that would minimize nuisance noise impacts on those not operating the off-road vehicle;

(c) The applicability and consistency of local ordinances concerning noise and off-road vehicle usage; and

(d) The availability of, and barriers to, using public lands or other large ownerships to create areas where off-road vehicles can be operated with minimum noise disturbance of neighbors.

(3)(a) The committee shall be staffed by the house office of program research and senate committee services.

(b) Legislative members of the committee will be reimbursed for travel expenses in accordance with RCW 44.04.120.

(4) The committee shall report its findings and recommendations in the form of draft legislation to the legislature by December 1, 2005.

(5) This section expires July 1, 2006.

NEW SECTION. **Sec. 9.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2005."

On page 1, line 1 of the title, after "roadways;" strike the remainder of the title and insert "amending RCW 46.09.010, 46.09.120, and 46.37.010; reenacting and amending RCW 46.16.010; adding new sections to chapter 46.09 RCW; creating new sections; providing an effective date; providing an expiration date; and declaring an emergency."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to ENGROSSED HOUSE BILL NO. 1003 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representatives Wallace and Condotta spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed House Bill No. 1003 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 1003, as amended by the Senate and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

ENGROSSED HOUSE BILL NO. 1003, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 6, 2005

Mr. Speaker:

The Senate has passed ENGROSSED HOUSE BILL NO. 1068, with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28A.230.195 and 1999 c 373 s 603 are each amended to read as follows:

(1) If students' scores on the test or assessments under RCW ((~~28A.230.190, 28A.230.230, and 28A.630.885~~)) 28A.655.070 indicate that students need help in identified areas, the school district shall evaluate its instructional practices and make appropriate adjustments.

(2) Each school district shall notify the parents of each student of their child's performance on the test and assessments conducted under this chapter.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.655 RCW to read as follows:

(1) The legislature finds that the mandatory norm-referenced student assessments eliminated under this act provide information that teachers and parents use to improve student learning. The legislature intends to permit school districts to offer norm-referenced assessments at the districts' own expense and make diagnostic tools available that provide information that is at least as valuable as the information eliminated under this act.

(2) School districts may, at their own expense, administer norm-referenced assessments to students.

(3) By September 1, 2005, subject to available funds, the office of the superintendent of public instruction shall post on its web site for voluntary use by school districts, a guide of diagnostic assessments. The assessments in the guide, to the extent possible, shall include the characteristics listed in subsection (4) (a) through (e) of this section.

(4) By September 1, 2006, subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction shall make available to school districts diagnostic assessments that help improve student learning. To the greatest extent possible, the assessments shall be:

(a) Aligned to the state's grade level expectations;

(b) Individualized to each student's performance level;

(c) Administered efficiently to provide results either immediately or within two weeks;

(d) Capable of measuring individual student growth over time; and

(e) Cost-effective.

(5) The office of the superintendent of public instruction is encouraged to offer at their statewide and regional staff development activities training opportunities that would assist practitioners in:

(a) The interpretation of diagnostic assessments; and

(b) Application of instructional strategies that will increase student learning based on diagnostic assessment data.

NEW SECTION. **Sec. 3.** The following acts or parts of acts are each repealed:

(1) RCW 28A.230.190 (Third grade achievement test) and 1999 c 373 s 201, 1998 c 319 s 202, 1997 c 262 s 5, 1990 c 101 s 6, 1985 c 403 s 1, 1984 c 278 s 8, & 1975-'76 2nd ex.s. c 98 s 1;

(2) RCW 28A.230.193 (Sixth grade achievement test) and 1999 c 373 s 301;

(3) RCW 28A.230.230 (Annual assessment of ninth grade students--Inventory for high school and beyond for use by eighth grade students) and 1999 c 373 s 401 & 1990 c 101 s 2; and

(4) RCW 28A.230.260 (Annual report to the legislature) and 1990 c 101 s 5."

On page 1, line 2 of the title, after "assessments;" strike the remainder of the title and insert "amending RCW 28A.230.195; adding a new section to chapter 28A.655 RCW; and repealing RCW 28A.230.190, 28A.230.193, 28A.230.230, and 28A.230.260."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to ENGROSSED HOUSE BILL NO. 1068 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representatives Quall and Talcott spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed House Bill No. 1068 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 1068, as amended by the Senate and the bill passed the House by the following vote: Yeas - 95, Nays - 3, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 95.

Voting nay: Representatives Dunn, Orcutt and Serben - 3.

ENGROSSED HOUSE BILL NO. 1068, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 15, 2005

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1128, with the following amendment:

DRAFT

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 77.15.700 and 2003 c 386 s 2 are each amended to read as follows:

The department shall impose revocation and suspension of privileges ((~~upon conviction~~)) in the following circumstances:

(1) Upon conviction, if directed by statute for an offense;

(2) Upon conviction, if the department finds that actions of the defendant demonstrated a willful or wanton disregard for conservation of fish or wildlife. Such suspension of privileges may be permanent. This subsection (2) does not apply to violations involving commercial fishing;

(3) If a person is convicted twice within ten years for a violation involving unlawful hunting, killing, or possessing big game, the department shall order revocation and suspension of all hunting privileges for two years. RCW 77.12.722 or 77.16.050 as it existed before June 11, 1998, may comprise one of the convictions constituting the basis for revocation and suspension under this subsection;

(4)(a) If a person is convicted of an offense, has an uncontested notice of infraction, fails to appear at a hearing to contest an infraction, or is found to have committed an infraction three times in ten years ((~~of~~)) involving any violation of recreational hunting or fishing laws or rules, the department shall order a revocation and suspension of all recreational hunting and fishing privileges for two years.

(b) A violation punishable as an infraction counts towards the revocation and suspension of recreational hunting and fishing privileges only where that violation is:

(i) Punishable as a crime on the effective date of this section and is subsequently decriminalized; or

(ii) One of the following violations, as they exist on the effective date of this section: RCW 77.15.160 (1) or (2); WAC 220-56-116; WAC 220-56-315(11); or WAC 220-56-355 (1) through (4).

(c) The commission may, by rule, designate additional infractions that do not count towards the revocation and suspension of recreational hunting and fishing privileges.

Sec. 2. RCW 77.15.020 and 1998 c 190 s 3 are each amended to read as follows:

If the commission or director has authority to adopt a rule that is punishable as a crime under this chapter, then the commission or director may provide that violation of the rule shall be punished with notice of infraction under RCW 7.84.030. Neither the commission nor the director have the authority to adopt a rule providing that a violation punishable as an infraction shall be a crime."

On page 1, line 2 of the title, after "77.15 RCW" strike the remainder of the title and insert "amending RCW 77.15.700 and 77.15.020; and prescribing penalties."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1128 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representatives B. Sullivan and Nixon spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of House Bill No. 1128 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1128, as amended by the Senate and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

HOUSE BILL NO. 1128, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 14, 2005

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1152, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that parents are their children's first and most important teachers, caregivers, and decision makers. The legislature also recognizes that many parents are employed or in school and must seek services in their communities to assist with the care and support of their children. Welfare reform requires parents with low incomes to enter the work force while their children are young, increasing parents' need for the support of such resources. In seeking out resources in their communities to provide care and support for their children, parents throughout the state need and deserve to have the best possible

information to help inform their choices about the care and education of their children.

The legislature also finds that research on brain development in young children establishes that early experiences are important to children's emotional, social, physical, and cognitive development. Research also shows a clear and compelling connection between the quality of children's early childhood care and education experiences and later success in school and in life.

The legislature intends to build on the efforts of communities across the state to improve the quality of early learning environments available to children and their families, as well as the information available to families relating to those early learning environments. The legislature recognizes that efforts to improve early learning must build upon existing partnerships between the public and private sectors. The experiences and resources of both public and private entities are essential to making meaningful and lasting improvements in the quality of early learning environments across the state. Statewide leadership is needed to guide and support the efforts of the private and public sectors working together to make systemwide improvements in the quality, affordability, and accessibility of early learning opportunities.

The legislature intends to establish an effective oversight body, composed of representation from the public and private sectors, to provide leadership and vision to strengthen the quality of early learning services and programs for all children and families in the state and to ensure that children enter school ready to succeed.

NEW SECTION. **Sec. 2.** The definitions in this section apply throughout sections 1 through 6 of this act unless the context clearly requires otherwise.

(1) "Early learning programs and services" include the following: Child care; state, private, and nonprofit preschool programs; child care subsidy programs; and training and professional development programs for early learning professionals.

(2) "Council" means the Washington early learning council.

NEW SECTION. **Sec. 3.** (1) The Washington early learning council is established in the governor's office. The purpose of the council is to provide vision, leadership, and direction to the improvement, realignment, and expansion of early learning programs and services for children birth to five years of age in order to better meet the early learning needs of children and their families. The goal of the council is to build upon existing efforts and recommend new initiatives, as necessary, to create an adequately financed, high-quality, accessible, and comprehensive early learning system that benefits all young children whose parents choose it.

(2) The council shall develop an early learning plan to improve the organization of early learning programs and services at the state level, and to improve the accessibility and quality of early learning programs and services throughout the state.

(a) By November 15, 2005, the council shall make recommendations to the governor and the appropriate committees of the legislature concerning statewide organization of early learning.

(b) The council shall also make recommendations to the governor and the appropriate committees of the legislature concerning the following:

(i) Identification of current populations being served and potential populations to be served by early learning programs and services;

(ii) The state's role in supporting quality early learning programs and services;

(iii) Appropriate levels and sources of stable and sustainable funding to meet statewide and local need for early learning programs and services, including public-private partnerships;

(iv) Changes in existing early learning programs and services, including the administration of those programs and services, to improve their efficiency, effectiveness, and quality;

(v) Changes in existing early learning programs and services to ensure that the content is aligned with what children need to know and be able to do upon entering school;

(vi) How to maximize available early learning resources to ensure children are receiving continuity of care; and

(vii) Providing for smooth transitions from early learning programs and services to K-12 programs.

(c) As provided in sections 5 and 6 of this act, the council shall focus on quality improvements to licensed child care through the following mechanisms:

(i) A voluntary, quality-based, graduated rating system to provide information to parents on the quality of child care programs and to provide resources and incentives for quality improvements; and

(ii) A tiered-reimbursement system for state-subsidized child care to improve the quality of care for children participating in state-funded care.

(d) The council shall make recommendations to the governor and the appropriate committees of the legislature concerning the regulation of child care, including child care that is exempt from regulation and unlicensed child care that is subject to regulation, in order to ensure the safety, health, quality, and accessibility of child care services throughout the state.

(3) The council shall serve as the advisory committee on early learning to the comprehensive education study steering committee, created in Engrossed Second Substitute Senate Bill No. 5441. The nongovernmental cochair of the council shall serve as the chair of the advisory committee on early learning. The council shall have input on the recommendations developed by the comprehensive education study steering committee.

(4) The council shall make use of existing reports, research, planning efforts, and programs, including, but not limited to, the following: The federal early head start program, the federal head start program, the state early childhood education and assistance program, the state's essential academic learning requirements and K-3 grade level expectations, the Washington state early learning and development benchmarks, existing tiered-reimbursement initiatives, the state's early childhood comprehensive systems plan, and the work of the child care coordinating committee established pursuant to RCW 74.13.090.

NEW SECTION. **Sec. 4.** (1) The council shall include representation from public, nonprofit, and for-profit entities, and its membership shall reflect regional, racial, and cultural diversity to ensure representation of the needs of all children and families in the state.

(2) The council shall consist of seventeen members, as follows:

(a) One representative each of the governor's office, the department of social and health services, the department of health, and the state board for community and technical colleges, appointed by the governor;

(b) One representative of the office of superintendent of public instruction, appointed by the superintendent of public instruction;

(c) Two representatives of private business and two representatives of philanthropy, appointed by the governor;

(d) Four individuals who have demonstrated leadership and engagement in the field of early learning, appointed by the governor; and

(e) Two members of the house of representatives appointed by the speaker of the house of representatives, one of whom shall be a member of the majority caucus and one of whom shall be a member of the minority caucus, and two members of the senate appointed by the president of the senate, one of whom shall be a member of the majority caucus and one of whom shall be a member of the minority caucus.

(3) The council shall be cochaired by the representative of the governor's office and a nongovernmental member designated by the governor.

(4) Members of the council shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) The governor may employ an executive director, who is exempt from the provisions of chapter 41.06 RCW, and such other staff as is necessary to carry out the purposes of sections 1 through 6 of this act. The governor pursuant to RCW 43.03.040 shall fix the salary of the executive director.

(6) The council shall monitor and measure its progress and regularly report, as appropriate, to the governor and the appropriate committees of the legislature on the progress, findings, and recommendations of the council.

(7) The council shall establish one or more technical advisory committees, as needed. Membership of such advisory committees may include the following: Representatives of any state agency the council deems appropriate, including the higher education coordinating board and the state board for community and technical colleges; family home child care providers, child care center providers, and college or university child care providers; parents; early childhood development experts; representatives of school districts and teachers involved in the provision of child care and preschool programs; representatives of resource and referral programs; parent education specialists; pediatric or other health professionals; representatives of citizen groups concerned with child care and early learning; representatives of labor organizations; representatives of private business; and representatives of head start and early childhood education assistance program agencies.

NEW SECTION. **Sec. 5.** (1) The council shall develop a voluntary, quality-based, graduated rating system consisting of levels of quality to be achieved by licensed child care providers serving children and families in the state. The purpose of the rating system is to provide families with vital information about the quality of early learning programs available to them and to increase the quality of early learning programs operating throughout the state. In developing the voluntary rating system, the council shall seek to build upon existing partnerships and initiate new partnerships between the public and private sectors.

(2) In developing the voluntary rating system, the council shall establish a system of tiers as the basis for the rating system's levels of quality. In developing the system of tiers, the council shall take into consideration the following quality criteria:

(a) Child-to-staff ratios;

(b) Group size;

(c) Learning environment, including staff and child interactions;

(d) Curriculum;

(e) Parent and family involvement and support;

(f) Staff qualifications and training;

(g) Staff professional development;

(h) Staff compensation;

(i) Staff stability;

(j) Accreditation;

(k) Program evaluation; and

(l) Program administrative policies and procedures.

(3) In developing the voluntary rating system, the council shall establish quality assurance measures as well as a mechanism for system evaluation.

(4) In developing the voluntary rating system, the council shall make recommendations concerning both initial and subsequent statewide implementation of the rating system, including the following:

(a) Potential implementing entities;

(b) Sources of funding for implementation;

(c) Necessary infrastructure for facilitating and supporting participation in the rating system, including assistance necessary to help providers progress up the tiers; and

(d) Strategies for raising public awareness of the rating system.

(5) The council shall complete initial development of the voluntary rating system by December 1, 2005, and complete development by December 1, 2006.

(6) The council shall submit the voluntary rating system to the governor and the appropriate fiscal and policy committees of the legislature by January 1, 2007. If no action is taken by the legislature by the end of the 2007 regular legislative session, the council may begin initial implementation of the voluntary rating system, subject to available funding.

NEW SECTION. **Sec. 6.** (1) The council shall develop a tiered-reimbursement system that provides higher rates of reimbursement for state-subsidized child care for licensed child care providers that achieve one or more levels of quality above basic licensing requirements in accordance with the voluntary quality-based graduated rating system developed pursuant to section 5 of this act.

(2) In developing the tiered-reimbursement system, the council shall review existing tiered-reimbursement initiatives in the state and integrate those initiatives into the tiered-reimbursement system.

(3) The council shall complete initial development of the tiered-reimbursement system by December 1, 2005, to be implemented in two pilot sites in different geographic regions of the state with demonstrated public-private partnerships. The council shall complete development of the tiered-reimbursement system by December 1, 2006, to be implemented statewide, subject to the availability of amounts appropriated by the legislature for this specific purpose.

NEW SECTION. **Sec. 7.** A new section is added to chapter 74.15 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the department of social and health services shall implement the tiered-reimbursement system developed pursuant to section 6 of this act. Implementation of the tiered-reimbursement system shall initially consist of two pilot sites in different geographic regions of the state with demonstrated public-private partnerships, with statewide implementation to follow.

(2) In implementing the tiered-reimbursement system, consideration shall be given to child care providers who provide staff wage progression.

(3) The department shall begin implementation of the two pilot sites by March 30, 2006.

Sec. 8. RCW 28B.135.030 and 1999 c 375 s 3 are each amended to read as follows:

The higher education coordinating board shall administer the program for four-year institutions of higher education. The state board for community and technical colleges shall administer the program for community and technical colleges. The higher education coordinating board and the state board for community and technical colleges shall have the following powers and duties in administering each program:

(1) To adopt rules necessary to carry out the program;

(2) To establish one or more review committees to assist in the evaluation of proposals for funding. The review committee shall include but not be limited to individuals from the Washington association for the education of young children((~~, the child care coordinating committee,~~)) and the child care resource and referral network;

(3) To establish each biennium specific guidelines for submitting grant proposals consistent with the overall goals of the program. During the 1999-2001 biennium the guidelines shall be consistent with the following desired outcomes of increasing access to child care for students, addressing the demand for infant and toddler care, providing affordable child care alternatives, creating more cooperative preschool programs, creating models that can be replicated at other institutions, creating a partnership between university or college administrations and student government, or its equivalent and increasing efficiency and innovation at campus child care centers;

(4) To establish guidelines for an allocation system based on factors that include but are not limited to: The amount of money available in the trust fund; characteristics of the institutions including the size of the faculty and student body; and the number of child care grants received;

(5) To solicit grant proposals and provide information to the institutions of higher education about the program; and

(6) To establish reporting, evaluation, accountability, monitoring, and dissemination requirements for the recipients of the grants.

Sec. 9. RCW 41.04.385 and 2002 c 354 s 236 are each amended to read as follows:

The legislature finds that (1) demographic, economic, and social trends underlie a critical and increasing demand for child care in the state of Washington; (2) working parents and their children benefit when the employees' child care needs have been resolved; (3) the state of Washington should serve as a model employer by creating a supportive atmosphere, to the extent feasible, in which its employees may meet their child care needs; and (4) the state of Washington should encourage the development of partnerships between state agencies, state employees, state employee labor organizations, and private employers to expand the availability of affordable quality child care. The legislature finds further that resolving employee child care concerns not only benefits the employees and their children, but may benefit the employer by reducing absenteeism, increasing employee productivity, improving morale, and enhancing the employer's position in recruiting and retaining employees. Therefore, the legislature declares that it is the policy of the state of Washington to assist state employees by creating a supportive atmosphere in which they may meet their child care needs. Policies and procedures for state agencies to address employee child care needs will be the responsibility of the director of personnel in consultation with ((~~the child care coordinating committee, as provided in RCW 74.13.090, and~~)) state employee representatives.

Sec. 10. RCW 74.13.0903 and 1997 c 58 s 404 are each amended to read as follows:

The office of child care policy is established to operate under the authority of the department of social and health services. The duties and responsibilities of the office include, but are not limited to, the following, within appropriated funds:

(1) ((~~Staff and assist the child care coordinating committee in the implementation of its duties under RCW 74.13.090;~~

~~(2)~~)) Work in conjunction with the statewide child care resource and referral network as well as local governments, nonprofit organizations, businesses, and community child care advocates to create local child care resource and referral organizations. These organizations may carry out needs assessments, resource development, provider training, technical assistance, and parent information and training;

(((~~3~~))) (2) Actively seek public and private money for distribution as grants to the statewide child care resource and referral network and to existing or potential local child care resource and referral organizations;

(((~~4~~))) (3) Adopt rules regarding the application for and distribution of grants to local child care resource and referral organizations. The rules shall, at a minimum, require an applicant to submit a plan for achieving the following objectives:

(a) Provide parents with information about child care resources, including location of services and subsidies;

(b) Carry out child care provider recruitment and training programs, including training under RCW 74.25.040;

(c) Offer support services, such as parent and provider seminars, toy-lending libraries, and substitute banks;

(d) Provide information for businesses regarding child care supply and demand;

(e) Advocate for increased public and private sector resources devoted to child care;

(f) Provide technical assistance to employers regarding employee child care services; and

(g) Serve recipients of temporary assistance for needy families and working parents with incomes at or below household incomes of one hundred seventy-five percent of the federal poverty line;

(((~~5~~))) (4) Provide staff support and technical assistance to the statewide child care resource and referral network and local child care resource and referral organizations;

(((~~6~~))) (5) Maintain a statewide child care licensing data bank and work with department of social and health services licensors to provide information to local child care resource and referral organizations about licensed child care providers in the state;

(((~~7~~))) (6) Through the statewide child care resource and referral network and local resource and referral organizations, compile data about local child care needs and availability for future planning and development;

(((~~8~~))) (7) Coordinate with the statewide child care resource and referral network and local child care resource and referral organizations for the provision of training and technical assistance to child care providers; and

(((~~9~~))) (8) Collect and assemble information regarding the availability of insurance and of federal and other child care funding to assist state and local agencies, businesses, and other child care providers in offering child care services.

Sec. 11. RCW 74.15.030 and 2000 c 162 s 20 and 2000 c 122 s 40 are each reenacted and amended to read as follows:

The secretary shall have the power and it shall be the secretary's duty:

(1) In consultation with the children's services advisory committee, and with the advice and assistance of persons representative of the various type agencies to be licensed, to designate categories of facilities for which separate or different requirements shall be developed as may be appropriate whether because of variations in the ages, sex and other characteristics of persons served, variations in the purposes and services offered or size or structure of the agencies to be licensed hereunder, or because of any other factor relevant thereto;

(2) In consultation with the children's services advisory committee, and with the advice and assistance of persons representative of the various type agencies to be licensed, to adopt and publish minimum requirements for licensing applicable to each of the various categories of agencies to be licensed.

The minimum requirements shall be limited to:

(a) The size and suitability of a facility and the plan of operation for carrying out the purpose for which an applicant seeks a license;

(b) The character, suitability and competence of an agency and other persons associated with an agency directly responsible for the care and treatment of children, expectant mothers or developmentally disabled persons. In consultation with law enforcement personnel, the secretary shall investigate the conviction record or pending charges and dependency record information under chapter 43.43 RCW of each agency and its staff seeking licensure or relicensure. No unfounded allegation of child abuse or neglect as defined in RCW 26.44.020 may be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under this chapter. In order to determine the suitability of applicants for an agency license, licensees, their employees, and other persons who have unsupervised access to children in care, and who have not resided in the state of Washington during the three-year period before being authorized to care for children shall be fingerprinted. The fingerprints shall be forwarded to the Washington state patrol and federal bureau of investigation for a criminal history records check. The fingerprint criminal history records checks will be at the expense of the licensee except that in the case of a foster family home, if this expense would work a hardship on the licensee, the department shall pay the expense. The licensee may not pass this cost on to the employee or prospective employee, unless the employee is determined to be unsuitable due to his or her criminal history record. The secretary shall use the information solely for the purpose of determining eligibility for a license and for determining the character, suitability, and competence of those persons or agencies, excluding parents, not required to be licensed who are authorized to care for children, expectant mothers, and developmentally disabled persons. Criminal justice agencies shall provide the secretary such information as they may have and that the secretary may require for such purpose;

(c) The number of qualified persons required to render the type of care and treatment for which an agency seeks a license;

(d) The safety, cleanliness, and general adequacy of the premises to provide for the comfort, care and well-being of children, expectant mothers or developmentally disabled persons;

(e) The provision of necessary care, including food, clothing, supervision and discipline; physical, mental and social well-being; and educational, recreational and spiritual opportunities for those served;

(f) The financial ability of an agency to comply with minimum requirements established pursuant to chapter 74.15 RCW and RCW 74.13.031; and

(g) The maintenance of records pertaining to the admission, progress, health and discharge of persons served;

(3) To investigate any person, including relatives by blood or marriage except for parents, for character, suitability, and competence in the care and treatment of children, expectant mothers, and developmentally disabled persons prior to authorizing that person to care for children, expectant mothers, and developmentally disabled persons. However, if a child is placed with a relative under RCW 13.34.065 or 13.34.130, and if such relative appears otherwise suitable and competent to provide care and treatment the criminal history background check required by this section need not be completed before placement, but shall be completed as soon as possible after placement;

(4) On reports of alleged child abuse and neglect, to investigate agencies in accordance with chapter 26.44 RCW, including child day-care centers and family day-care homes, to determine whether the alleged abuse or neglect has occurred, and whether child protective services or referral to a law enforcement agency is appropriate;

(5) To issue, revoke, or deny licenses to agencies pursuant to chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the category of care which an agency is authorized to render and the ages, sex and number of persons to be served;

(6) To prescribe the procedures and the form and contents of reports necessary for the administration of chapter 74.15 RCW and RCW 74.13.031 and to require regular reports from each licensee;

(7) To inspect agencies periodically to determine whether or not there is compliance with chapter 74.15 RCW and RCW 74.13.031 and the requirements adopted hereunder;

(8) To review requirements adopted hereunder at least every two years and to adopt appropriate changes after consultation with ((~~the child care coordinating committee and other~~)) affected groups for child day-care requirements and with the children's services advisory committee for requirements for other agencies; and

(9) To consult with public and private agencies in order to help them improve their methods and facilities for the care of children, expectant mothers and developmentally disabled persons.

NEW SECTION. **Sec. 12.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2005, in the omnibus appropriations act, this act is null and void.

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

(5) RCW 74.13.090 (Child care coordinating committee) and 1995 c 399 s 204, 1993 c 194 s 7, 1989 c 381 s 3, & 1988 c 213 s 2; and

(6) RCW 74.13.0901 (Child care partnership) and 1989 c 381 s 4.

NEW SECTION. **Sec. 14.** Sections 1 through 6 of this act expire July 1, 2007.

NEW SECTION. **Sec. 15.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 1 of the title, after "learning;" strike the remainder of the title and insert "amending RCW 28B.135.030, 41.04.385, and 74.13.0903; reenacting and amending RCW 74.15.030; adding a new section to chapter 74.15 RCW; creating new sections; repealing RCW 74.13.090 and 74.13.0901; providing an expiration date; and declaring an emergency."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1152 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representative Kagi spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed Second Substitute House Bill No. 1152 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1152, as amended by the Senate and the bill passed the House by the following vote: Yeas - 77, Nays - 21, Absent - 0, Excused - 0.

Voting yea: Representatives Appleton, Blake, Buck, Buri, Campbell, Chase, Clements, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Ormsby, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schual-Berke, Sells, Shabro, Simpson, Skinner, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 77.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Chandler, Condotta, Cox, Crouse, Curtis, DeBolt, Dunn, Holmquist, Kretz, Kristiansen, Orcutt, Pearson, Schindler, Serben, Strow and Sump - 21.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1152, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 12, 2005

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1216, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 46.16 RCW to read as follows:

(1) The legislature recognizes that the Wild On Washington license plate has been reviewed by the special license plate review board under RCW 46.16.725 and was found to fully comply with all provisions of RCW 46.16.715 through 46.16.775.

(2) The department shall issue a special license plate displaying a symbol or artwork, approved by the special license plate review board and the legislature, referred to as "Wild On Washington license plates," that may be used in lieu of regular or personalized license plates for vehicles required to display one or two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department.

NEW SECTION. **Sec. 2.** A new section is added to chapter 46.16 RCW to read as follows:

For the purposes of RCW 46.16.313 and section 1 of this act, the term "Wild On Washington license plates" means license plates issued under section 1 of this act that display a symbol or artwork symbolizing wildlife viewing in Washington state.

Sec. 3. RCW 46.16.313 and 2004 c 221 s 3, 2004 c 48 s 3, and 2004 c 35 s 3 are each reenacted and amended to read as follows:

(1) The department may establish a fee of no more than forty dollars for each type of special license plates issued under RCW 46.16.301(1) (a), (b), or (c), as existing before amendment by section 5, chapter 291, Laws of 1997, in an amount calculated to offset the cost of production of the special license plates and the administration of this program. This fee is in addition to all other fees required to register and license the vehicle for which the plates have been requested. All such additional special license plate fees collected by the department shall be deposited in the state treasury and credited to the motor vehicle fund.

(2) In addition to all fees and taxes required to be paid upon application and registration of a motor vehicle, the holder of a collegiate license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. The state treasurer shall credit the funds to the appropriate collegiate license plate fund as provided in RCW 28B.10.890.

(3) In addition to all fees and taxes required to be paid upon renewal of a motor vehicle registration, the holder of a collegiate license plate shall pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. The state treasurer shall credit the funds to the appropriate collegiate license plate fund as provided in RCW 28B.10.890.

(4) In addition to all fees and taxes required to be paid upon application and registration of a motor vehicle, the holder of a special baseball stadium license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds, minus the cost of plate production, shall be distributed to a county for the purpose of paying the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction

costs, while the taxes are being collected under RCW 82.14.360. After this date, the state treasurer shall credit the funds to the state general fund.

(5) In addition to all fees and taxes required to be paid upon renewal of a motor vehicle registration, the holder of a special baseball stadium license plate shall pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be distributed to a county for the purpose of paying the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs, while the taxes are being collected under RCW 82.14.360. After this date, the state treasurer shall credit the funds to the state general fund.

(6) Effective with vehicle registrations due or to become due on January 1, 2005, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a professional fire fighters and paramedics license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the professional fire fighters and paramedics license plates. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the Washington State Council of Fire Fighters benevolent fund established under RCW 46.16.30902.

(7) Effective with annual renewals due or to become due on January 1, 2006, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a professional fire fighters and paramedics license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the professional fire fighters and paramedics special license plate. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the Washington State Council of Fire Fighters benevolent fund established under RCW 46.16.30902.

(8) Effective with vehicle registrations due or to become due on November 1, 2004, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a "Helping Kids Speak" license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Helping Kids Speak" special license plate. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the "Helping Kids Speak" account established under RCW 46.16.30904.

(9) Effective with annual renewals due or to become due on November 1, 2005, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a "Helping Kids Speak" license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Helping Kids Speak" special license plate. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the "Helping Kids Speak" account established under RCW 46.16.30904.

(10) Effective with vehicle registrations due or to become due on January 1, 2005, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a "law enforcement memorial" license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the law enforcement memorial special license plate. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the law enforcement memorial account established under RCW 46.16.30906.

(11) Effective with annual renewals due or to become due on January 1, 2006, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a "law enforcement memorial" license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the law enforcement memorial special license plate. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the law enforcement memorial account established under RCW 46.16.30906.

(12)(a) Effective with vehicle registrations due or to become due on or after January 1, 2006, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a Wild On Washington license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the Wild On Washington license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the state wildlife account. Proceeds credited to the state wildlife account from the sale of the Wild On Washington license plates must be dedicated to the

department of fish and wildlife's watchable wildlife activities defined in RCW 77.32.560(2).

(b) Effective with annual renewals due or to become due on or after January 1, 2007, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a Wild On Washington license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the Wild On Washington license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the state wildlife account. Proceeds credited to the state wildlife account from the sale of the Wild On Washington license plates must be dedicated to the department of fish and wildlife's watchable wildlife activities defined in RCW 77.32.560(2).

Sec. 4. RCW 77.12.170 and 2004 c 248 s 4 are each amended to read as follows:

(1) There is established in the state treasury the state wildlife ((~~fund~~)) account which consists of moneys received from:

(a) Rentals or concessions of the department;

(b) The sale of real or personal property held for department purposes;

(c) The sale of licenses, permits, tags, and stamps required by chapter 77.32 RCW and RCW 77.65.490, except annual resident adult saltwater and all annual razor clam and shellfish licenses, which shall be deposited into the state general fund;

(d) Fees for informational materials published by the department;

(e) Fees for personalized vehicle and Wild On Washington license plates as provided in chapter 46.16 RCW;

(f) Articles or wildlife sold by the director under this title;

(g) Compensation for damage to department property or wildlife losses or contributions, gifts, or grants received under RCW 77.12.320;

(h) Excise tax on anadromous game fish collected under chapter 82.27 RCW;

(i) The sale of personal property seized by the department for fish, shellfish, or wildlife violations;

(j) The department's share of revenues from auctions and raffles authorized by the commission; and

(k) The sale of watchable wildlife decals under RCW 77.32.560.

(2) State and county officers receiving any moneys listed in subsection (1) of this section shall deposit them in the state treasury to be credited to the state wildlife ((~~fund~~)) account."

In line 1 of the title, after "plates;" strike the remainder of the title and insert "amending RCW 77.12.170; reenacting and amending RCW 46.16.313; and adding new sections to chapter 46.16 RCW."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1216 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representative Wallace spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 1216 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1216, as amended by the Senate and the bill passed the House by the following vote: Yeas - 92, Nays - 6, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Wood, Woods and Mr. Speaker - 92.

Voting nay: Representatives Buck, Darneille, Hankins, Kretz, Sump and Williams - 6.

SUBSTITUTE HOUSE BILL NO. 1216, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 15, 2005

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1280, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 74.13 RCW to read as follows:

(1) Within existing resources, the department shall establish an oversight committee to monitor, guide, and report on kinship care recommendations and implementation activities. The committee shall:

(a) Draft a kinship care definition that is restricted to persons related by blood, marriage, or adoption, including marriages that have been dissolved, or for a minor defined as an "Indian child" under the federal Indian child welfare act (25 U.S.C. Sec. 1901 et seq.), the definition of "extended family member" under the federal Indian child welfare act, and a set of principles. If the committee concludes that one or more programs or services would be more efficiently and effectively delivered under a different definition of kin, it shall state what definition is needed, and identify the program or service in the report. It shall also provide evidence of how the program or service will be more efficiently and effectively delivered under the different definition. The department shall not adopt rules or policies changing the definition of kin without authorizing legislation;

(b) Monitor and provide consultation on the implementation of recommendations contained in the 2002 kinship care report, including but not limited to the recommendations relating to legal and respite care services and resources;

(c) Partner with nonprofit organizations and private sector businesses to guide a public education awareness campaign; and

(d) Assist with developing future recommendations on kinship care issues.

(2) The department shall consult with the oversight committee on its efforts to better collaborate and coordinate services to benefit kinship care families.

(3) The oversight committee must consist of a minimum of thirty percent kinship caregivers, who shall represent a diversity of kinship families. Statewide representation with geographic, ethnic, and gender diversity is required. Other members shall include representatives of the department, representatives of relevant state agencies, representatives of the private nonprofit and business sectors, child advocates, representatives of Washington state Indian tribes as defined under the federal Indian welfare act (25 U.S.C. Sec. 1901 et seq.), and representatives of the legal or judicial field. Birth parents, foster parents, and others who have an interest in these issues may also be included.

(4) To the extent funding is available, the department may reimburse nondepartmental members of the oversight committee for costs incurred in participating in the meetings of the oversight committee.

(5) The kinship care oversight committee shall update the legislature and governor annually on committee activities, with the first update due by January 1, 2006.

(6) This section expires January 1, 2010."

On page 1, line 1 of the title, after "committee;" strike the remainder of the title and insert "adding a new section to chapter 74.13 RCW; and providing an expiration date."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1280 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representatives Kagi and Walsh spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 1280 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1280, as amended by the Senate and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

SUBSTITUTE HOUSE BILL NO. 1280, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 14, 2005

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1304, with the following amendment:

On page 2, after line 17, insert the following:

"**Sec. 3.** RCW 16.52.117 and 1994 c 261 s 11 are each amended to read as follows:

(1) ((~~Any~~)) A person ((~~who does any of the following is guilty of a gross misdemeanor punishable by imprisonment not to exceed one year, or by a fine not to exceed five thousand dollars, or by both fine and imprisonment~~)) commits the crime of animal fighting if the person knowingly does any of the following:

(a) Owns, possesses, keeps, ((~~or~~)) breeds, trains, buys, sells, or advertises or offers for sale any animal with the intent that the animal shall be engaged in an exhibition of fighting with another animal;

(b) ((~~For amusement or gain causes any animal to fight with another animal, or causes any animals to injure each other; or~~

~~(c) Permits any act in violation of (a) or (b) of this subsection to be done on any premises under his or her charge or control, or~~

~~promotes or aids or abets any such act.~~)) Promotes, organizes, conducts, participates in, advertises, or performs any service in the furtherance of an exhibition of animal fighting, transports spectators to an animal fight, or provides or serves as a stakeholder for any money wagered on an animal fight;

(c) Keeps or uses any place for the purpose of animal fighting, or manages or accepts payment of admission to any place kept or used for the purpose of animal fighting;

(d) Suffers or permits any place over which the person has possession or control to be occupied, kept, or used for the purpose of an exhibition of animal fighting; or

(e) Takes, leads away, possesses, confines, sells, transfers, or receives a stray animal or a pet animal, with the intent to deprive the owner of the pet animal, and with the intent of using the stray animal or pet animal for animal fighting, or for training or baiting for the purpose of animal fighting.

(2) ((~~Any person who is knowingly present, as a spectator, at any place or building where preparations are being made for an exhibition of the fighting of animals, with the intent to be present at such preparations, or is knowingly present at such exhibition or at any other fighting or injuring as described in subsection (1)(b) of this section, with the intent to be present at such exhibition, fighting, or injuring, is guilty of a misdemeanor.~~)) A person who violates this section is guilty of a class C felony punishable under RCW 9A.20.021.

(3) Nothing in this section ((~~may~~)) prohibits the following:

(a) The use of dogs in the management of livestock, as defined by chapter 16.57 RCW, by the owner of the livestock or the owner's employees or agents or other persons in lawful custody of the livestock;

(b) The use of dogs in hunting as permitted by law; or

(c) The training of animals or the use of equipment in the training of animals for any purpose not prohibited by law.

(4) For the purposes of this section, "animal" means dogs or male chickens."

On page 1, beginning on line 1 of the title, after "16.52.205" strike "and 16.52.207" and insert ", 16.52.207, and 16.52.117"

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1304 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representatives Kessler and Priest spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 1304 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1304, as amended by the Senate and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

SUBSTITUTE HOUSE BILL NO. 1304, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 14, 2005

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1307, with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 41.04.007 and 2002 c 292 s 2 are each amended to read as follows:

"Veteran" includes every person, who at the time he or she seeks the benefits of RCW 72.36.030, 41.04.010, 73.04.090, 73.04.110, 73.08.010, 73.08.060, 73.08.070, or 73.08.080 has received an honorable discharge or received a discharge for medical reasons with an honorable record, where applicable, and who has served in at least one of the following capacities:

(1) As a member in any branch of the armed forces of the United States, including the national guard and armed forces reserves, and has fulfilled his or her initial military service obligation;

(2) As a member of the women's air forces service pilots;

(3) As a member of the armed forces reserves, national guard, or coast guard, and has been called into federal service by a presidential select reserve call up for at least one hundred eighty cumulative days;

(4) As a civil service crewmember with service aboard a U.S. army transport service or U.S. naval transportation service vessel in oceangoing service from December 7, 1941, through December 31, 1946; ((~~or~~))

(5) As a member of the Philippine armed forces/scouts during the period of armed conflict from December 7, 1941, through August 15, 1945; or

(6) A United States documented merchant mariner with service aboard an oceangoing vessel operated by the department of defense, or its agents, from both June 25, 1950, through July 27, 1953, in Korean territorial waters and from August 5, 1964, through May 7, 1975, in Vietnam territorial waters, and who received a military commendation."

On page 1, line 1 of the title, after "purposes;" strike the remainder of the title and insert "and amending RCW 41.04.007."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1307 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representatives Haigh and Nixon spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of House Bill No. 1307 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1307, as amended by the Senate and the bill passed the House by the following vote: Yeas - 97, Nays - 1, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 97.

Voting nay: Representative DeBolt - 1.

HOUSE BILL NO. 1307, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 14, 2005

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1315, with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 82.32.330 and 2000 c 173 s 1 and 2000 c 106 s 1 are each reenacted and amended to read as follows:

(1) For purposes of this section:

(a) "Disclose" means to make known to any person in any manner whatever a return or tax information;

(b) "Return" means a tax or information return or claim for refund required by, or provided for or permitted under, the laws of this state which is filed with the department of revenue by, on behalf of, or with respect to a person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists that are supplemental to, or part of, the return so filed;

(c) "Tax information" means (i) a taxpayer's identity, (ii) the nature, source, or amount of the taxpayer's income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability deficiencies, overassessments, or tax payments, whether taken from the taxpayer's books and records or any other source, (iii) whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, (iv) a part of a written determination that is not designated as a precedent and disclosed pursuant to RCW 82.32.410, or a background file document relating to a written determination, and (v) other data received by, recorded by, prepared by, furnished to, or collected by the department of revenue with respect to the determination of the existence, or possible existence, of liability, or the amount thereof, of a person under the laws of this state for a tax, penalty, interest, fine, forfeiture, or other imposition, or offense: PROVIDED, That data, material, or documents that do not disclose information related to a specific or identifiable taxpayer do not constitute tax information under this section. Except as provided by RCW 82.32.410, nothing in this chapter shall require any person possessing data, material, or documents made confidential and privileged by this section to delete information from such data, material, or documents so as to permit its disclosure;

(d) "State agency" means every Washington state office, department, division, bureau, board, commission, or other state agency;

(e) "Taxpayer identity" means the taxpayer's name, address, telephone number, registration number, or any combination thereof, or any other information disclosing the identity of the taxpayer; and

(f) "Department" means the department of revenue or its officer, agent, employee, or representative.

(2) Returns and tax information shall be confidential and privileged, and except as authorized by this section, neither the department of revenue nor any other person may disclose any return or tax information.

(3) ((~~The foregoing, however, shall~~)) This section does not prohibit the department of revenue from:

(a) Disclosing such return or tax information in a civil or criminal judicial proceeding or an administrative proceeding:

(i) In respect of any tax imposed under the laws of this state if the taxpayer or its officer or other person liable under Title 82 RCW is a party in the proceeding; or

(ii) In which the taxpayer about whom such return or tax information is sought and another state agency are adverse parties in the proceeding;

(b) Disclosing, subject to such requirements and conditions as the director shall prescribe by rules adopted pursuant to chapter 34.05 RCW, such return or tax information regarding a taxpayer to such taxpayer or to such person or persons as that taxpayer may designate in a request for, or consent to, such disclosure, or to any other person, at the taxpayer's request, to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person: PROVIDED, That tax information not received from the taxpayer shall not be so disclosed if the director determines that such disclosure would compromise any investigation or litigation by any federal, state, or local government agency in connection with the civil or criminal liability of the taxpayer or another person, or that such disclosure would identify a confidential informant, or that such disclosure is contrary to any agreement entered into by the department that provides for the reciprocal exchange of information with other government agencies which agreement requires confidentiality with respect to such information unless such information is required to be disclosed to the taxpayer by the order of any court;

(c) Disclosing the name of a taxpayer with a deficiency greater than five thousand dollars and against whom a warrant under RCW 82.32.210 has been either issued or filed and remains outstanding for a period of at least ten working days. The department shall not be required to disclose any information under this subsection if a taxpayer: (i) Has been issued a tax assessment; (ii) has been issued a warrant that has not been filed; and (iii) has entered a deferred payment arrangement with the department of revenue and is making payments upon such deficiency that will fully satisfy the indebtedness within twelve months;

(d) Disclosing the name of a taxpayer with a deficiency greater than five thousand dollars and against whom a warrant under RCW 82.32.210 has been filed with a court of record and remains outstanding;

(e) Publishing statistics so classified as to prevent the identification of particular returns or reports or items thereof;

(f) Disclosing such return or tax information, for official purposes only, to the governor or attorney general, or to any state agency, or to any committee or subcommittee of the legislature dealing with matters of taxation, revenue, trade, commerce, the control of industry or the professions;

(g) Permitting the department of revenue's records to be audited and examined by the proper state officer, his or her agents and employees;

(h) Disclosing any such return or tax information to a peace officer as defined in RCW 9A.04.110 or county prosecuting attorney, for official purposes. The disclosure may be made only in response to a search warrant, subpoena, or other court order, unless the disclosure is for the purpose of criminal tax enforcement. A peace officer or county prosecuting attorney who receives the return or tax information may disclose that return or tax information only for use in the investigation and a related court proceeding, or in the court proceeding for which the return or tax information originally was sought;

(i) Disclosing any such return or tax information to the proper officer of the internal revenue service of the United States, the Canadian government or provincial governments of Canada, or to the proper officer of the tax department of any state or city or town or county, for official purposes, but only if the statutes of the United States, Canada or its provincial governments, or of such other state or city or town or county, as the case may be, grants substantially similar privileges to the proper officers of this state;

(j) Disclosing any such return or tax information to the Department of Justice, the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury, the Department of Defense, the United States Customs Service, the Coast Guard of the United States, and the United States Department of Transportation, or any authorized representative thereof, for official purposes;

(k) Publishing or otherwise disclosing the text of a written determination designated by the director as a precedent pursuant to RCW 82.32.410;

(l) Disclosing, in a manner that is not associated with other tax information, the taxpayer name, entity type, business address, mailing address, revenue tax registration numbers, North American industry classification system or standard industrial classification code of a taxpayer, and the dates of opening and closing of business. This subsection shall not be construed as giving authority to the department to give, sell, or provide access to any list of taxpayers for any commercial purpose;

(m) Disclosing such return or tax information that is also maintained by another Washington state or local governmental agency as a public record available for inspection and copying under the provisions of chapter 42.17 RCW or is a document maintained by a court of record not otherwise prohibited from disclosure;

(n) Disclosing such return or tax information to the United States department of agriculture for the limited purpose of investigating food stamp fraud by retailers;

(o) Disclosing to a financial institution, escrow company, or title company, in connection with specific real property that is the subject of a real estate transaction, current amounts due the department for a filed tax warrant, judgment, or lien against the real property; ((~~or~~))

(p) Disclosing to a person against whom the department has asserted liability as a successor under RCW 82.32.140 return or tax information pertaining to the specific business of the taxpayer to which the person has succeeded; or

(q) Disclosing such return or tax information in the possession of the department relating to the administration or enforcement of the real estate excise tax imposed under chapter 82.45 RCW, including information regarding transactions exempt or otherwise not subject to tax.

(4)(a) The department may disclose return or taxpayer information to a person under investigation or during any court or administrative proceeding against a person under investigation as provided in this subsection (4). The disclosure must be in connection with the department's official duties relating to an audit, collection activity, or a civil or criminal investigation. The disclosure may occur only when the person under investigation and the person in possession of data, materials, or documents are parties to the return or tax information to be disclosed. The department may disclose return or tax information such as invoices, contracts, bills, statements, resale or exemption certificates, or checks. However, the department may not disclose general ledgers, sales or cash receipt journals, check registers, accounts receivable/payable ledgers, general journals, financial statements, expert's workpapers, income tax returns, state tax returns, tax return workpapers, or other similar data, materials, or documents.

(b) Before disclosure of any tax return or tax information under this subsection (4), the department shall, through written correspondence, inform the person in possession of the data, materials, or documents to be disclosed. The correspondence shall clearly identify the data, materials, or documents to be disclosed. The department may not disclose any tax return or tax information under

this subsection (4) until the time period allowed in (c) of this subsection has expired or until the court has ruled on any challenge brought under (c) of this subsection.

(c) The person in possession of the data, materials, or documents to be disclosed by the department has twenty days from the receipt of the written request required under (b) of this subsection to petition the superior court of the county in which the petitioner resides for injunctive relief. The court shall limit or deny the request of the department if the court determines that:

(i) The data, materials, or documents sought for disclosure are cumulative or duplicative, or are obtainable from some other source that is more convenient, less burdensome, or less expensive;

(ii) The production of the data, materials, or documents sought would be unduly burdensome or expensive, taking into account the needs of the department, the amount in controversy, limitations on the petitioner's resources, and the importance of the issues at stake; or

(iii) The data, materials, or documents sought for disclosure contain trade secret information that, if disclosed, could harm the petitioner.

(d) The department shall reimburse reasonable expenses for the production of data, materials, or documents incurred by the person in possession of the data, materials, or documents to be disclosed.

(e) Requesting information under (b) of this subsection that may indicate that a taxpayer is under investigation does not constitute a disclosure of tax return or tax information under this section.

(5) Any person acquiring knowledge of any return or tax information in the course of his or her employment with the department of revenue and any person acquiring knowledge of any return or tax information as provided under subsection (3)(f), (g), (h), (i), (j), or (n) of this section, who discloses any such return or tax information to another person not entitled to knowledge of such return or tax information under the provisions of this section, is guilty of a misdemeanor. If the person guilty of such violation is an officer or employee of the state, such person shall forfeit such office or employment and shall be incapable of holding any public office or employment in this state for a period of two years thereafter.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.07 RCW to read as follows:

(1) The secretary of state shall adopt rules requiring any entity that is required to file an annual report with the secretary of state, including entities under Titles 23, 23B, 24, and 25 RCW, to disclose any transfer in the controlling interest of the entity and any interest in real property.

(2) This information shall be made available to the department of revenue upon request for the purposes of tracking the transfer of the controlling interest in real property and to determine when the real estate excise tax is applicable in such cases.

(3) For the purposes of this section, "controlling interest" has the same meaning as provided in RCW 82.45.033.

NEW SECTION. **Sec. 3.** A new section is added to chapter 82.45 RCW to read as follows:

An organization that fails to report a transfer of the controlling interest in the organization under section 2 of this act to the secretary of state and is later determined to be subject to real estate excise taxes due to the transfer, shall be subject to the provisions of RCW 82.45.100 as well as the evasion penalty in RCW 82.32.090(6)."

On page 1, line 2 of the title, after "taxes;" strike the remainder of the title and insert "reenacting and amending RCW 82.32.330; adding a new section to chapter 43.07 RCW; and adding a new section to chapter 82.45 RCW."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1315 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representatives Tom and Hunter spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of House Bill No. 1315 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1315, as amended by the Senate and the bill passed the House by the following vote: Yeas - 97, Nays - 1, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 97.

Voting nay: Representative Dunn - 1.

HOUSE BILL NO. 1315, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 5, 2005

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1330, with the following amendment:

DRAFT

On page 15 after line 12 insert the following:

"Sec. 14. RCW 41.50.088 and 2000 c 247 s 602 are each amended to read as follows:

(1) The board shall adopt rules as necessary and exercise the following powers and duties:

(a) The board shall recommend to the state investment board types of options for member self-directed investment in the teachers' retirement system plan 3, the school employees' retirement system plan 3, and the public employees' retirement system plan 3 as deemed by the board to be reflective of the members' preferences;

(b) By July 1, 2005, subject to favorable tax determination by the Internal Revenue Service, the board shall make optional actuarially equivalent life annuity benefit payment schedules available to members and survivors that may be purchased from the combined plan 2 and plan 3 funds under RCW 41.50.075; and

(c) Determination of the basis for administrative charges to the self-directed investment fund to offset self-directed account expenses;

(2) The board shall recommend to the state investment board types of options for participant self-directed investment in the state deferred compensation plan, as deemed by the board to be reflective of the participants' preferences."

On page 1, on line 6 of the title, after "41.40.197, ", insert "41.50.088, ".

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1330 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representatives Clements and Hunt spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of House Bill No. 1330 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1330, as amended by the Senate and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

HOUSE BILL NO. 1330, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 14, 2005

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1469, with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.32.100 and 1998 c 172 s 1 are each amended to read as follows:

In addition to all other penalties provided by law, a commercial motor vehicle that is subject to terminal safety audits under this chapter and an officer, agent, or employee of a company operating a commercial motor vehicle who violates or who procures, aids, or abets in the violation of this title or any order or rule of the state patrol is liable for a penalty of one hundred dollars for each violation, except for each violation of 49 C.F.R. Pt. 382, controlled substances and alcohol use and testing, 49 C.F.R. Sec. 391.15, disqualification of drivers, and 49 C.F.R. Sec. 396.9(c)(2), moving a vehicle placed out of service before the out of service defects have been satisfactorily repaired, for which the person is liable for a penalty of five hundred dollars. Each violation is a separate and distinct offense, and in case of a continuing violation every day's continuance is a separate and distinct violation.

The penalty provided in this section is due and payable when the person incurring it receives a notice in writing from the patrol describing the violation and advising the person that the penalty is due. The patrol may, upon written application for review, received within fifteen days, remit or mitigate a penalty provided for in this section or discontinue a prosecution to recover the penalty upon such terms it deems proper and may ascertain the facts upon all such applications in such manner and under such rules as it deems proper. If the amount of the penalty is not paid to the patrol within fifteen days after receipt of the notice imposing the penalty, or application for remission or mitigation has not been made within fifteen days after the violator has received notice of the disposition of the application, the ((~~attorney general shall bring an action~~)) patrol may commence an adjudicative proceeding under chapter 34.05 RCW in the name of the state of Washington ((~~in the superior court of Thurston county or of some other county in which the violator does business,~~)) to confirm the violation and recover the penalty. In all such ((~~actions~~)) proceedings the procedure and rules of evidence are ((~~the same as an ordinary civil action~~)) as specified in chapter 34.05 RCW except as otherwise provided in this chapter. All penalties recovered under this section shall be paid into the state treasury and

credited to the state patrol highway account of the motor vehicle fund."

On page 1, line 2 of the title, after "orders;" strike the remainder of the title and insert "and amending RCW 46.32.100."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1469 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representative Wallace spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of House Bill No. 1469 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1469, as amended by the Senate and the bill passed the House by the following vote: Yeas - 97, Nays - 1, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 97.

Voting nay: Representative DeBolt - 1.

HOUSE BILL NO. 1469, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 14, 2005

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1478, with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.61.655 and 1990 c 250 s 56 are each amended to read as follows:

(1) No vehicle shall be driven or moved on any public highway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction. ((~~Any person operating a vehicle from which any glass or objects have fallen or escaped, which would constitute an obstruction or injure a vehicle or otherwise endanger travel upon such public highway shall immediately cause the public highway to be cleaned of all such glass or objects and shall pay any costs therefor.~~))

(2) No person may operate on any public highway any vehicle with any load unless the load and such covering as required thereon by subsection (3) of this section is securely fastened to prevent the covering or load from becoming loose, detached, or in any manner a hazard to other users of the highway.

(3) Any vehicle operating on a paved public highway with a load of dirt, sand, or gravel susceptible to being dropped, spilled, leaked, or otherwise escaping therefrom shall be covered so as to prevent spillage. Covering of such loads is not required if six inches of freeboard is maintained within the bed.

(4)(a) Any person operating a vehicle from which any glass or objects have fallen or escaped, which would constitute an obstruction or injure a vehicle or otherwise endanger travel upon such public highway shall immediately cause the public highway to be cleaned of all such glass or objects and shall pay any costs therefor.

(b) Any vehicle with deposits of mud, rocks, or other debris on the vehicle's body, fenders, frame, undercarriage, wheels, or tires shall be cleaned of such material before the operation of the vehicle on a paved public highway.

(5) The state patrol may make necessary rules to carry into effect the provisions of this section, applying such provisions to specific conditions and loads and prescribing means, methods, and practices to effectuate such provisions.

(6) Nothing in this section may be construed to prohibit a public maintenance vehicle from dropping sand on a highway to enhance traction, or sprinkling water or other substances to clean or maintain a highway.

(7)(a)(i) A person is guilty of failure to secure a load in the first degree if he or she, with criminal negligence, fails to secure a load or part of a load to his or her vehicle in compliance with subsection (1), (2), or (3) of this section and causes substantial bodily harm to another.

(ii) Failure to secure a load in the first degree is a gross misdemeanor.

(b)(i) A person is guilty of failure to secure a load in the second degree if he or she, with criminal negligence, fails to secure a load or part of a load to his or her vehicle in compliance with subsection (1) or (2) of this section and causes damage to property of another.

(ii) Failure to secure a load in the second degree is a misdemeanor.

(c) A person who fails to secure a load or part of a load to his or her vehicle in compliance with subsection (1), (2), or (3) of this section is guilty of an infraction if such failure does not amount to a violation of (a) or (b) of this subsection.

Sec. 2. RCW 46.63.020 and 2004 c 95 s 14 are each amended to read as follows:

Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

(1) RCW 46.09.120(2) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;

(2) RCW 46.09.130 relating to operation of nonhighway vehicles;

(3) RCW 46.10.090(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;

(4) RCW 46.10.130 relating to the operation of snowmobiles;

(5) Chapter 46.12 RCW relating to certificates of ownership and registration and markings indicating that a vehicle has been destroyed or declared a total loss;

(6) RCW 46.16.010 relating to initial registration of motor vehicles;

(7) RCW 46.16.011 relating to permitting unauthorized persons to drive;

(8) RCW 46.16.160 relating to vehicle trip permits;

(9) RCW 46.16.381(2) relating to knowingly providing false information in conjunction with an application for a special placard or license plate for disabled persons' parking;

(10) RCW 46.20.005 relating to driving without a valid driver's license;

(11) RCW 46.20.091 relating to false statements regarding a driver's license or instruction permit;

(12) RCW 46.20.0921 relating to the unlawful possession and use of a driver's license;

(13) RCW 46.20.342 relating to driving with a suspended or revoked license or status;

(14) RCW 46.20.345 relating to the operation of a motor vehicle with a suspended or revoked license;

(15) RCW 46.20.410 relating to the violation of restrictions of an occupational or temporary restricted driver's license;

(16) RCW 46.20.740 relating to operation of a motor vehicle without an ignition interlock device in violation of a license notation that the device is required;

(17) RCW 46.20.750 relating to assisting another person to start a vehicle equipped with an ignition interlock device;

(18) RCW 46.25.170 relating to commercial driver's licenses;

(19) Chapter 46.29 RCW relating to financial responsibility;

(20) RCW 46.30.040 relating to providing false evidence of financial responsibility;

(21) RCW 46.37.435 relating to wrongful installation of sunscreening material;

(22) RCW 46.37.650 relating to the sale, resale, distribution, or installation of a previously deployed air bag;

(23) RCW 46.44.180 relating to operation of mobile home pilot vehicles;

(24) RCW 46.48.175 relating to the transportation of dangerous articles;

(25) RCW 46.52.010 relating to duty on striking an unattended car or other property;

(26) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(27) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;

(28) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;

(29) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;

(30) RCW 46.55.035 relating to prohibited practices by tow truck operators;

(31) RCW 46.61.015 relating to obedience to police officers, flaggers, or fire fighters;

(32) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;

(33) RCW 46.61.022 relating to failure to stop and give identification to an officer;

(34) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;

(35) RCW 46.61.500 relating to reckless driving;

(36) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;

(37) RCW 46.61.503 relating to a person under age twenty-one driving a motor vehicle after consuming alcohol;

(38) RCW 46.61.520 relating to vehicular homicide by motor vehicle;

(39) RCW 46.61.522 relating to vehicular assault;

(40) RCW 46.61.5249 relating to first degree negligent driving;

(41) RCW 46.61.527(4) relating to reckless endangerment of roadway workers;

(42) RCW 46.61.530 relating to racing of vehicles on highways;

(43) RCW 46.61.655(7) (a) and (b) relating to failure to secure a load;

(44) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;

(((~~(44)~~))) (45) RCW 46.61.740 relating to theft of motor vehicle fuel;

(((~~(45)~~))) (46) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;

(((~~(46)~~))) (47) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;

(((~~(47)~~))) (48) Chapter 46.65 RCW relating to habitual traffic offenders;

(((~~(48)~~))) (49) RCW 46.68.010 relating to false statements made to obtain a refund;

(((~~(49)~~))) (50) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;

(((~~(50)~~))) (51) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

(((~~(51)~~))) (52) RCW 46.72A.060 relating to limousine carrier insurance;

(((~~(52)~~))) (53) RCW 46.72A.070 relating to operation of a limousine without a vehicle certificate;

(((~~(53)~~))) (54) RCW 46.72A.080 relating to false advertising by a limousine carrier;

(((~~(54)~~))) (55) Chapter 46.80 RCW relating to motor vehicle wreckers;

(((~~(55)~~))) (56) Chapter 46.82 RCW relating to driver's training schools;

(((~~(56)~~))) (57) RCW 46.87.260 relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;

(((~~(57)~~))) (58) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW."

On page 1, line 1 of the title, after "highways;" strike the remainder of the title and insert "amending RCW 46.61.655 and 46.63.020; and prescribing penalties."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1478 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representatives O'Brien and Pearson spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 1478 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1478, as amended by the Senate and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

SUBSTITUTE HOUSE BILL NO. 1478, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 6, 2005

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1640, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that there are factors unique to the relationship between a manufactured/mobile homeowner and a manufactured/mobile home park owner. Once occupancy has commenced, the difficulty and expense in moving and relocating a manufactured/mobile home can affect the operation of market forces, and lead to an inequality of the bargaining position of the parties. Once occupancy has commenced, a homeowner may be subject to violations of the manufactured/mobile home landlord-tenant act or unfair practices without a timely and cost-effective conflict resolution process. Although a homeowner, landlord, or park owner may take legal action as prescribed in the manufactured/mobile home landlord-tenant act, the judicial process is often time and cost prohibitive. This act is created for the purpose of protecting the public, fostering fair and honest competition, and regulating the factors unique to the relationship between the manufactured/mobile homeowner and park owner.

(2) The legislature finds that taking legal action against a park owner for violations of the manufactured/mobile home landlord-tenant act can be a costly and lengthy process, and that many people cannot afford to pursue a court process to vindicate statutory rights. Park owners similarly are impacted by legal fees and lengthy proceedings resulting from pursuing a remedy through the legal system and would also, therefore, benefit from having access to an appropriate, effective process that resolves disputes quickly and efficiently.

(3) Therefore, it is the intent of the legislature to provide a less costly and more efficient way for manufactured/mobile homeowners and park owners to resolve disputes, and to provide a mechanism for state authorities to quickly locate owners of manufactured housing communities. The legislature further intends to authorize the department of community, trade, and economic development to:

(a) Register mobile home parks or manufactured housing communities and report upon data to the appropriate committees of the legislature by December 31, 2005;

(b) Expand its current ombudsman program by hiring or contracting with additional persons to conduct a greater number of investigations of alleged violations of the manufactured/mobile home landlord-tenant act; and

(c) Collect and report upon data related to conflicts and violations to the appropriate committees of the legislature by December 31, 2005.

(4) If after receiving the reports under subsection (3) of this section, the legislature finds that the provisions of this act authorizing the department to register mobile/manufactured home communities, investigate complaints, clarify existing law, and work to resolve disputes in good faith voluntarily prove insufficient to adequately protect the rights and responsibilities of mobile home park tenants and owners, it is the intent of the legislature to find other methods for resolution in the future.

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

UNOFFICIAL

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

(2) "Director" means the director of the department of community, trade, and economic development.

(3) "Mobile home park" or "manufactured housing community" means any real property that is rented or held out for rent to others for the placement of two or more mobile homes, manufactured homes, or park models for the primary purpose of production of income, except when the real property is rented or held out for rent for seasonal recreational purposes only and is not intended for year-round occupancy.

(4) "Landlord" or "park owner" means the owner of a mobile home park or a manufactured housing community and includes the agents of the landlord.

(5) "Tenant" or "homeowner" means any person, except a transient, who rents or occupies a mobile home lot.

(6) "Owner" means one or more persons, jointly or severally, in whom is vested:

(a) All or part of the legal title to the real property; or

(b) All or part of the beneficial ownership, and a right to present use and enjoyment of the real property.

(7) "Unfair practice" means any act that would constitute an unfair or deceptive act or practice under chapter 19.86 RCW.

(8) "Complainant" means a landlord, park owner, tenant, or homeowner, who has a complaint alleging an unfair practice or violation of chapter 59.20 RCW.

(9) "Respondent" means a landlord, park owner, tenant, or homeowner, alleged to have committed an unfair practice or violation of chapter 59.20 RCW.

NEW SECTION. **Sec. 3.** (1) A complainant shall have the right to file a complaint with the department alleging an unfair practice or a violation of chapter 59.20 RCW.

(2) The complainant must provide written notice to the respondent prior to notifying the department of an alleged violation of chapter 59.20 RCW or unfair practice. If the complaint is not remedied within the time frame provided by RCW 59.20.080 for tenant violations or 59.20.200 for landlord violations, the complainant may then file a complaint with the department.

(3) The department may:

(a) Investigate the alleged violations at its discretion upon receipt of a complaint alleging unfair practices or violations of chapter 59.20 RCW;

(b) Utilize investigative ombudsman staff or contractors to investigate and evaluate complaints alleging unfair practices or violations of chapter 59.20 RCW;

(c) Discuss the issues surrounding or relating to the complaint with the complainant, respondent, or any witnesses, either individually or jointly;

(d) Explain options available to the complainant or respondent, including the involvement of other agencies; and

(e) Negotiate an agreement that is agreed upon by both the complainant and the respondent.

(4) The department may require or permit any person to file a complaint or statement in writing or otherwise as the department determines, as to the facts and circumstances concerning a matter to be investigated.

(5) The department has the power to employ investigative, administrative, and clerical staff as necessary for administration of this act.

(6)(a) Complainants and respondents shall cooperate with the department in the course of an investigation by:

(i) Furnishing any papers or documents requested;

(ii) Furnishing in writing an explanation covering the matter contained in a complaint when requested by the department; and

(iii) Allowing authorized access to department representatives for inspection of mobile home parks/manufactured housing community facilities relevant to the alleged violation being investigated.

(b) Failure to cooperate with the department in the course of an investigation is a violation of this act.

(7) After the department has completed its investigation and other duties, the department shall compile a written report documenting the process and resolution of the complaint investigation. Under no circumstances shall the department make or issue any finding, conclusion, decision, or ruling on whether there was a violation of chapter 59.20 or 19.86 RCW.

(8) By December 31, 2005, the department shall submit a summary report of its activities under this act during the period after the effective date of this act, through December 31, 2005, to the house of representatives housing committee and the senate committee on financial institutions, housing and consumer protection, including:

(a) The number of complaints received;

(b) The nature and extent of the complaints received;

(c) The actions taken on each complaint by the department;

(d) Recommendations on what further changes in law are necessary to resolve disputes;

(e) Recommendations on changes to the department's ombudsman and investigative programs;

(f) Recommendations on resources necessary to retain or improve the program; and

(g) Recommendations on whether a formal mobile/manufactured home landlord-tenant act enforcement and administrative hearing process should be adopted and how such a process should be structured.

(9) The department shall ensure that notice of the ombudsman complaint resolution program is given to each mobile/manufactured home landlord or park owner and each mobile home unit owner or tenant. The landlord shall post an easily visible notice in all common areas of mobile/manufactured home communities, including in each clubhouse, summarizing mobile home park tenant rights and responsibilities, in a style and format to be determined by the department, and including a toll-free telephone number that mobile home park owners and tenants can use to seek additional information and communicate complaints.

(10) This section is not exclusive and does not limit the right of landlords or tenants to take legal action against another party as provided in chapter 59.20 RCW or otherwise. Exhaustion of this ombudsman remedy process is not required before bringing legal action. This act is not subject to chapter 34.05 RCW. This section does not apply to unlawful detainer actions initiated under chapters 59.20, 59.12, and 59.18 RCW; however, a tenant is not precluded from seeking relief under this act if the complaint claims the notice of termination violates RCW 59.20.080. Filing a complaint with the department is not a defense nor shall it in any way delay or otherwise affect an unlawful detainer action. Department-written reports documenting the process and resolution of the complaint investigation, any written explanation covering the matter requested by the department, any other documents or papers requested or produced by the department, or any other record of the complaint may be admissible only for purposes of impeachment in any unlawful detainer or other administrative or legal action in regard to chapter 59.20 RCW.

NEW SECTION. **Sec. 4.** The director or individuals acting on the director's behalf are immune from suit in any action, civil or criminal, based upon any disciplinary actions or other official acts performed in the course of their duties under this act, except their intentional or willful misconduct.

NEW SECTION. **Sec. 5.** (1) All mobile home parks and manufactured housing communities must be registered with the department.

(2) To apply for registration, the owner of a mobile home park or manufactured housing community must file with the department an application for registration on a form prescribed by the department. The application must include, but is not limited to:

(a) The name and address of the owner of the mobile home park or manufactured housing community;

(b) The name and address of the mobile home park or manufactured housing community;

(c) The name and address of the manager of the mobile home park or manufactured housing community; and

(d) The number of lots within the mobile home park or manufactured housing community that are subject to chapter 59.20 RCW.

(3) Certificates of registration are effective on the date issued by the department.

NEW SECTION. **Sec. 6.** The department must:

(1) Compile the most accurate list possible of all the mobile home parks or manufactured housing communities in the state, the number of lots subject to chapter 59.20 RCW located in each mobile home park or manufactured housing community, and the names and addresses of the owners of these parks. The department shall present this list to the house of representatives housing committee and the senate committee on financial institutions, housing and consumer protection by December 31, 2005. The department is encouraged to work with groups including, but not limited to: The office of community development, mobile homeowners' associations, tenant advocacy groups, park owners' associations, and county assessors to generate the list;

(2) Send out notifications to all known mobile home park owners or manufactured housing community owners regarding the due date of the assessment pursuant to section 7 of this act. These notifications must include information about late fees and passing costs on to tenants; and

(3) Collect the registration assessment due from all mobile home park owners or manufactured housing community owners, and allow ninety days to pass before sending notices of late fees to noncomplying owners as provided in this act.

NEW SECTION. **Sec. 7.** (1) The owner of each mobile home park or manufactured housing community shall pay to the department a registration assessment of five dollars for each mobile home or manufactured home that is subject to chapter 59.20 RCW within a park or community to fund the costs associated with administering this act. Manufactured housing community owners or mobile home park owners may pass on no more than two dollars and fifty cents of this assessment to tenants.

(2) If an owner fails to pay the assessment before the registration expiration date, a late fee shall be assessed at the prevailing interest rate for superior court civil judgments for each mobile home or manufactured home that is subject to chapter 59.20 RCW. The owner is not entitled to any reimbursement of this fee from the tenants.

NEW SECTION. **Sec. 8.** The manufactured/mobile home investigations account is created in the custody of the state treasurer. All receipts from assessments and fees collected under section 7 of this act must be deposited into the account. Expenditures from the account may be used only for the costs associated with administering this act. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

Sec. 9. RCW 59.22.050 and 1991 c 327 s 3 are each amended to read as follows:

(1) In order to provide general assistance to mobile home resident organizations, park owners, and landlords and tenants, the department shall establish an office of mobile home affairs which will serve as the coordinating office within state government for matters relating to mobile homes or manufactured housing.

This office will provide an ombudsman service to mobile home park owners and mobile home tenants with respect to problems and disputes between park owners and park residents and to provide technical assistance to resident organizations or persons in the process of forming a resident organization pursuant to chapter 59.22 RCW. The office will keep records of its activities in this area.

(2) The office shall perform all the consumer complaint and related functions of the state administrative agency that are required for purposes of complying with this chapter and the regulations established by the federal department of housing and urban development for manufactured housing, including the preparation and submission of the state administrative plan.

(3) The office shall administer the mobile/manufactured home community registration program including the collection of assessments, associated late fees, and the compilation of data related to the number of communities and number of lots within the community that are subject to chapter 59.20 RCW.

(4) The office shall administer the mobile home relocation assistance program established in chapter 59.21 RCW, including verifying the eligibility of tenants for relocation assistance.

NEW SECTION. **Sec. 10.** Any amount assessed under section 7(2) of this act that remains uncollected on December 31, 2005, shall be collected under the terms of section 7 of this act as it existed before December 31, 2005.

NEW SECTION. **Sec. 11.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. **Sec. 12.** Except for sections 10 and 13 of this act, this act expires December 31, 2005.

NEW SECTION. **Sec. 13.** Beginning in January 2006, the state treasurer shall transfer any funds remaining in the manufactured/mobile home investigations account under section 8 of this act to the mobile home affairs account under RCW 59.22.070 for the purposes under RCW 59.22.050. All funds collected by the department under section 10 of this act shall be transferred to the state treasurer for deposit into the mobile home affairs account."

On page 1, line 2 of the title, after "disputes;" strike the remainder of the title and insert "amending RCW 59.22.050; creating

new sections; providing an expiration date; and declaring an emergency."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1640 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representatives Miloscia and Holmquist spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed Substitute House Bill No. 1640 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1640, as amended by the Senate and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1640, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 15, 2005

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1687, with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9.41.040 and 2003 c 53 s 26 are each amended to read as follows:

(1)(a) A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the first degree, if the person owns, has in his or her possession, or has in his or her control any firearm after having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of any serious offense as defined in this chapter.

(b) Unlawful possession of a firearm in the first degree is a class B felony punishable according to chapter 9A.20 RCW.

(2)(a) A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the second degree, if the person does not qualify under subsection (1) of this section for the crime of unlawful possession of a firearm in the first degree and the person owns, has in his or her possession, or has in his or her control any firearm:

(i) After having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of any felony not specifically listed as prohibiting firearm possession under subsection (1) of this section, or any of the following crimes when committed by one family or household member against another, committed on or after July 1, 1993: Assault in the fourth degree, coercion, stalking, reckless endangerment, criminal trespass in the first degree, or violation of the provisions of a protection order or no-contact order restraining the person or excluding the person from a residence (RCW 26.50.060, 26.50.070, 26.50.130, or 10.99.040);

(ii) After having previously been involuntarily committed for mental health treatment under RCW 71.05.320, 71.34.090, chapter 10.77 RCW, or equivalent statutes of another jurisdiction, unless his or her right to possess a firearm has been restored as provided in RCW 9.41.047;

(iii) If the person is under eighteen years of age, except as provided in RCW 9.41.042; and/or

(iv) If the person is free on bond or personal recognizance pending trial, appeal, or sentencing for a serious offense as defined in RCW 9.41.010.

(b) Unlawful possession of a firearm in the second degree is a class C felony punishable according to chapter 9A.20 RCW.

(3) Notwithstanding RCW 9.41.047 or any other provisions of law, as used in this chapter, a person has been "convicted", whether in an adult court or adjudicated in a juvenile court, at such time as a plea of guilty has been accepted, or a verdict of guilty has been filed, notwithstanding the pendency of any future proceedings including but not limited to sentencing or disposition, post-trial or post-factfinding motions, and appeals. Conviction includes a dismissal entered after a period of probation, suspension or deferral of sentence, and also includes equivalent dispositions by courts in jurisdictions other than Washington state. A person shall not be precluded from possession of a firearm if the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted or the conviction or disposition has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. Where no record of the court's disposition of the charges can be found, there shall be a rebuttable presumption that the person was not convicted of the charge.

(4) Notwithstanding subsection (1) or (2) of this section, a person convicted or found not guilty by reason of insanity of an offense prohibiting the possession of a firearm under this section

other than murder, manslaughter, robbery, rape, indecent liberties, arson, assault, kidnapping, extortion, burglary, or violations with respect to controlled substances under RCW 69.50.401 and 69.50.410, who received a probationary sentence under RCW 9.95.200, and who received a dismissal of the charge under RCW 9.95.240, shall not be precluded from possession of a firearm as a result of the conviction or finding of not guilty by reason of insanity. Notwithstanding any other provisions of this section, if a person is prohibited from possession of a firearm under subsection (1) or (2) of this section and has not previously been convicted or found not guilty by reason of insanity of a sex offense prohibiting firearm ownership under subsection (1) or (2) of this section and/or any felony defined under any law as a class A felony or with a maximum sentence of at least twenty years, or both, the individual may petition a court of record to have his or her right to possess a firearm restored:

(a) Under RCW 9.41.047; and/or

(b)(i) If the conviction or finding of not guilty by reason of insanity was for a felony offense, after five or more consecutive years in the community without being convicted or found not guilty by reason of insanity or currently charged with any felony, gross misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions that prohibit the possession of a firearm counted as part of the offender score under RCW 9.94A.525; or

(ii) If the conviction or finding of not guilty by reason of insanity was for a nonfelony offense, after three or more consecutive years in the community without being convicted or found not guilty by reason of insanity or currently charged with any felony, gross misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions that prohibit the possession of a firearm counted as part of the offender score under RCW 9.94A.525 and the individual has completed all conditions of the sentence.

(5) In addition to any other penalty provided for by law, if a person under the age of eighteen years is found by a court to have possessed a firearm in a vehicle in violation of subsection (1) or (2) of this section or to have committed an offense while armed with a firearm during which offense a motor vehicle served an integral function, the court shall notify the department of licensing within twenty-four hours and the person's privilege to drive shall be revoked under RCW 46.20.265.

(6) Nothing in chapter 129, Laws of 1995 shall ever be construed or interpreted as preventing an offender from being charged and subsequently convicted for the separate felony crimes of theft of a firearm or possession of a stolen firearm, or both, in addition to being charged and subsequently convicted under this section for unlawful possession of a firearm in the first or second degree. Notwithstanding any other law, if the offender is convicted under this section for unlawful possession of a firearm in the first or second degree and for the felony crimes of theft of a firearm or possession of a stolen firearm, or both, then the offender shall serve consecutive sentences for each of the felony crimes of conviction listed in this subsection.

(7) Each firearm unlawfully possessed under this section shall be a separate offense.

Sec. 2. RCW 9.41.047 and 1996 c 295 s 3 are each amended to read as follows:

(1) At the time a person is convicted or found not guilty by reason of insanity of an offense making the person ineligible to possess a firearm, or at the time a person is committed by court order under RCW 71.05.320, 71.34.090, or chapter 10.77 RCW for mental health treatment, the convicting or committing court shall notify the person, orally and in writing, that the person must immediately surrender any concealed pistol license and that the person may not possess a firearm unless his or her right to do so is restored by a court of record. For purposes of this section a convicting court includes a court in which a person has been found not guilty by reason of insanity.

The convicting or committing court also shall forward a copy of the person's driver's license or identicard, or comparable information, to the department of licensing, along with the date of conviction or commitment.

(2) Upon receipt of the information provided for by subsection (1) of this section, the department of licensing shall determine if the convicted or committed person has a concealed pistol license. If the person does have a concealed pistol license, the department of licensing shall immediately notify the license-issuing authority which, upon receipt of such notification, shall immediately revoke the license.

(3)(a) A person who is prohibited from possessing a firearm, by reason of having been involuntarily committed for mental health treatment under RCW 71.05.320, 71.34.090, chapter 10.77 RCW, or equivalent statutes of another jurisdiction may, upon discharge, petition a court of record to have his or her right to possess a firearm restored. At the time of commitment, the court shall specifically state to the person that he or she is barred from possession of firearms.

(b) The secretary of social and health services shall develop appropriate rules to create an approval process under this subsection. The rules must provide for the restoration of the right to possess a firearm upon a showing in a court of competent jurisdiction that the person is no longer required to participate in an inpatient or outpatient treatment program, is no longer required to take medication to treat any condition related to the commitment, and does not present a substantial danger to himself or herself, others, or the public. Unlawful possession of a firearm under this subsection shall be punished as a class C felony under chapter 9A.20 RCW.

(c) A person petitioning the court under this subsection (3) shall bear the burden of proving by a preponderance of the evidence that the circumstances resulting in the commitment no longer exist and are not reasonably likely to recur. If a preponderance of the evidence in the record supports a finding that the person petitioning the court has engaged in violence and that it is more likely than not that the person will engage in violence after his or her right to possess a firearm is restored, the person shall bear the burden of proving by clear, cogent, and convincing evidence that he or she does not present a substantial danger to the safety of others.

(4) No person who has been found not guilty by reason of insanity may petition a court for restoration of the right to possess a firearm unless the person meets the requirements for the restoration of the right to possess a firearm under RCW 9.41.040(4).

Sec. 3. RCW 9.41.060 and 1998 c 253 s 2 are each amended to read as follows:

The provisions of RCW 9.41.050 shall not apply to:

(1) Marshals, sheriffs, prison or jail wardens or their deputies, or other law enforcement officers of this state or another state;

(2) Members of the armed forces of the United States or of the national guard or organized reserves, when on duty;

(3) Officers or employees of the United States duly authorized to carry a concealed pistol;

(4) Any person engaged in the business of manufacturing, repairing, or dealing in firearms, or the agent or representative of the person, if possessing, using, or carrying a pistol in the usual or ordinary course of the business;

(5) Regularly enrolled members of any organization duly authorized to purchase or receive pistols from the United States or from this state;

(6) Regularly enrolled members of clubs organized for the purpose of target shooting, when those members are at or are going to or from their places of target practice;

(7) Regularly enrolled members of clubs organized for the purpose of modern and antique firearm collecting, when those members are at or are going to or from their collector's gun shows and exhibits;

(8) Any person engaging in a lawful outdoor recreational activity such as hunting, fishing, camping, hiking, or horseback riding, only if, considering all of the attendant circumstances, including but not limited to whether the person has a valid hunting or fishing license, it is reasonable to conclude that the person is participating in lawful outdoor activities or is traveling to or from a legitimate outdoor recreation area;

(9) Any person while carrying a pistol unloaded and in a closed opaque case or secure wrapper; or

(10) Law enforcement officers retired for service or physical disabilities, except for those law enforcement officers retired because of mental or stress-related disabilities. This subsection applies only to a retired officer who has: (a) Obtained documentation from a law enforcement agency within Washington state from which he or she retired that is signed by the agency's chief law enforcement officer and that states that the retired officer was retired for service or physical disability; and (b) not been convicted or found not guilty by reason of insanity of a crime making him or her ineligible for a concealed pistol license.

Sec. 4. RCW 9.41.075 and 1994 sp.s. c 7 s 408 are each amended to read as follows:

(1) The license shall be revoked by the license-issuing authority immediately upon:

(a) Discovery by the issuing authority that the person was ineligible under RCW 9.41.070 for a concealed pistol license when applying for the license or license renewal;

(b) Conviction of the licensee, or the licensee being found not guilty by reason of insanity, of an offense, or commitment of the licensee for mental health treatment, that makes a person ineligible under RCW 9.41.040 to possess a firearm;

(c) Conviction of the licensee for a third violation of this chapter within five calendar years; or

(d) An order that the licensee forfeit a firearm under RCW 9.41.098(1)(d).

(2)(a) Unless the person may lawfully possess a pistol without a concealed pistol license, an ineligible person to whom a concealed pistol license was issued shall, within fourteen days of license revocation, lawfully transfer ownership of any pistol acquired while the person was in possession of the license.

(b) Upon discovering a person issued a concealed pistol license was ineligible for the license, the issuing authority shall contact the department of licensing to determine whether the person purchased a pistol while in possession of the license. If the person did purchase a pistol while in possession of the concealed pistol license, if the person may not lawfully possess a pistol without a concealed pistol license, the issuing authority shall require the person to present satisfactory evidence of having lawfully transferred ownership of the pistol. The issuing authority shall require the person to produce the evidence within fifteen days of the revocation of the license.

(3) When a licensee is ordered to forfeit a firearm under RCW 9.41.098(1)(d), the issuing authority shall:

(a) On the first forfeiture, revoke the license for one year;

(b) On the second forfeiture, revoke the license for two years; or

(c) On the third or subsequent forfeiture, revoke the license for five years.

Any person whose license is revoked as a result of a forfeiture of a firearm under RCW 9.41.098(1)(d) may not reapply for a new license until the end of the revocation period.

(4) The issuing authority shall notify, in writing, the department of licensing of the revocation of a license. The department of licensing shall record the revocation.

Sec. 5. RCW 71.05.390 and 2004 c 166 s 6, 2004 c 157 s 5, and 2004 c 33 s 2 are each reenacted and amended to read as follows:

Except as provided in this section, the fact of admission and all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services at public or private agencies shall be confidential.

Information and records may be disclosed only:

(1) In communications between qualified professional persons to meet the requirements of this chapter, in the provision of services or appropriate referrals, or in the course of guardianship proceedings. The consent of the patient, or his or her guardian, shall be obtained before information or records may be disclosed by a professional person employed by a facility unless provided to a professional person:

(a) Employed by the facility;

(b) Who has medical responsibility for the patient's care;

(c) Who is a county designated mental health professional;

(d) Who is providing services under chapter 71.24 RCW;

(e) Who is employed by a state or local correctional facility where the person is confined or supervised; or

(f) Who is providing evaluation, treatment, or follow-up services under chapter 10.77 RCW.

(2) When the communications regard the special needs of a patient and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing outpatient services to the operator of a care facility in which the patient resides.

(3) When the person receiving services, or his or her guardian, designates persons to whom information or records may be released, or if the person is a minor, when his or her parents make such designation.

(4) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(5) For either program evaluation or research, or both: PROVIDED, That the secretary adopts rules for the conduct of the evaluation or research, or both. Such rules shall include, but need not be limited to, the requirement that all evaluators and researchers must sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I, ..., agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

/s/ . . . . . "

(6)(a) To the courts as necessary to the administration of this chapter or to a court ordering an evaluation or treatment under chapter 10.77 RCW solely for the purpose of preventing the entry of any evaluation or treatment order that is inconsistent with any order entered under this chapter.

(b) To a court or its designee in which a motion under chapter 10.77 RCW has been made for involuntary medication of a defendant for the purpose of competency restoration.

(c) Disclosure under this subsection is mandatory for the purpose of the health insurance portability and accountability act.

(7) To law enforcement officers, public health officers, or personnel of the department of corrections or the indeterminate sentence review board for persons who are the subject of the records and who are committed to the custody or supervision of the department of corrections or indeterminate sentence review board which information or records are necessary to carry out the responsibilities of their office. Except for dissemination of information released pursuant to RCW 71.05.425 and 4.24.550, regarding persons committed under this chapter under RCW 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, the extent of information that may be released is limited as follows:

(a) Only the fact, place, and date of involuntary commitment, the fact and date of discharge or release, and the last known address shall be disclosed upon request;

(b) The law enforcement and public health officers or personnel of the department of corrections or indeterminate sentence review board shall be obligated to keep such information confidential in accordance with this chapter;

(c) Additional information shall be disclosed only after giving notice to said person and his or her counsel and upon a showing of clear, cogent, and convincing evidence that such information is necessary and that appropriate safeguards for strict confidentiality are and will be maintained. However, in the event the said person has escaped from custody, said notice prior to disclosure is not necessary and that the facility from which the person escaped shall include an evaluation as to whether the person is of danger to persons or property and has a propensity toward violence;

(d) Information and records shall be disclosed to the department of corrections pursuant to and in compliance with the provisions of RCW 71.05.445 for the purposes of completing presentence investigations or risk assessment reports, supervision of an incarcerated offender or offender under supervision in the community, planning for and provision of supervision of an offender, or assessment of an offender's risk to the community; and

(e) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.

(8) To the attorney of the detained person.

(9) To the prosecuting attorney as necessary to carry out the responsibilities of the office under RCW 71.05.330(2) and 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access to records regarding the committed person's treatment and prognosis, medication, behavior problems, and other records relevant to the issue of whether treatment less restrictive than inpatient treatment is in the best interest of the committed person or others. Information shall be disclosed only after giving notice to the committed person and the person's counsel.

(10) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure shall be made by the professional person in charge of the public or private agency or his or her designee and shall include the dates of commitment, admission, discharge, or release, authorized or unauthorized absence from the agency's facility, and only such other information that is pertinent to the threat or harassment. The decision to disclose or not shall not result in civil liability for the agency or its employees so long as the decision was reached in good faith and without gross negligence.

(11) To appropriate corrections and law enforcement agencies all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The decision to disclose or not shall not result in civil liability for the mental health service provider or its employees so long as the decision was reached in good faith and without gross negligence.

(12) To the persons designated in RCW 71.05.425 for the purposes described in that section.

(13) Civil liability and immunity for the release of information about a particular person who is committed to the department under RCW 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, is governed by RCW 4.24.550.

(14) To a patient's next of kin, guardian, or conservator, if any, in the event of death, as provided in RCW 71.05.400.

(15) To the department of health for the purposes of determining compliance with state or federal licensure, certification, or registration rules or laws. However, the information and records obtained under this subsection are exempt from public inspection and copying pursuant to chapter 42.17 RCW.

(16) To mark headstones or otherwise memorialize patients interred at state hospital cemeteries. The department of social and health services shall make available the name, date of birth, and date of death of patients buried in state hospital cemeteries fifty years after the death of a patient.

(17) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)(ii). The extent of information that may be released is limited as follows:

(a) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), shall be disclosed upon request;

(b) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)(ii);

(c) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.

The fact of admission, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to this chapter shall not be admissible as evidence in any legal proceeding outside this chapter without the written consent of the person who was the subject of the proceeding except in a subsequent criminal prosecution of a person committed pursuant to RCW 71.05.280(3) or 71.05.320(2)(c) on charges that were dismissed pursuant to chapter 10.77 RCW due to incompetency to stand trial or in a civil commitment proceeding pursuant to chapter 71.09 RCW. The records and files maintained in any court proceeding pursuant to this chapter shall be confidential and available subsequent to such

proceedings only to the person who was the subject of the proceeding or his or her attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

Sec. 6. RCW 71.34.200 and 2000 c 75 s 7 are each amended to read as follows:

The fact of admission and all information obtained through treatment under this chapter is confidential. Confidential information may be disclosed only:

(1) In communications between mental health professionals to meet the requirements of this chapter, in the provision of services to the minor, or in making appropriate referrals;

(2) In the course of guardianship or dependency proceedings;

(3) To persons with medical responsibility for the minor's care;

(4) To the minor, the minor's parent, and the minor's attorney, subject to RCW 13.50.100;

(5) When the minor or the minor's parent designates in writing the persons to whom information or records may be released;

(6) To the extent necessary to make a claim for financial aid, insurance, or medical assistance to which the minor may be entitled or for the collection of fees or costs due to providers for services rendered under this chapter;

(7) To the courts as necessary to the administration of this chapter;

(8) To law enforcement officers or public health officers as necessary to carry out the responsibilities of their office. However, only the fact and date of admission, and the date of discharge, the name and address of the treatment provider, if any, and the last known address shall be disclosed upon request;

(9) To law enforcement officers, public health officers, relatives, and other governmental law enforcement agencies, if a minor has escaped from custody, disappeared from an evaluation and treatment facility, violated conditions of a less restrictive treatment order, or failed to return from an authorized leave, and then only such information as may be necessary to provide for public safety or to assist in the apprehension of the minor. The officers are obligated to keep the information confidential in accordance with this chapter;

(10) To the secretary for assistance in data collection and program evaluation or research, provided that the secretary adopts rules for the conduct of such evaluation and research. The rules shall include, but need not be limited to, the requirement that all evaluators and researchers sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I, ..., agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding minors who have received services in a manner such that the minor is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under state law.

/s/ . . . . . "

(11) To appropriate law enforcement agencies, upon request, all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The decision to disclose or not shall not result in civil liability for the mental health service provider or its employees so long as the decision was reached in good faith and without gross negligence;

(12) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure shall be made by the professional person in charge of the public or private agency or his or her designee and shall include the dates of admission, discharge, authorized or unauthorized absence from the agency's facility, and only such other information that is pertinent to the threat or harassment. The decision to disclose or not shall not result in civil liability for the agency or its employees so long as the decision was reached in good faith and without gross negligence;

(13) To a minor's next of kin, attorney, guardian, or conservator, if any, the information that the minor is presently in the facility or that the minor is seriously physically ill and a statement evaluating the mental and physical condition of the minor as well as a statement of the probable duration of the minor's confinement;

(14) Upon the death of a minor, to the minor's next of kin;

(15) To a facility in which the minor resides or will reside;

(16) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)(ii). The extent of information that may be released is limited as follows:

(a) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), shall be disclosed upon request;

(b) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)(ii);

(c) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.

This section shall not be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the secretary. The fact of admission and all information obtained pursuant to this chapter are not admissible as evidence in any legal proceeding outside this chapter, except guardianship or dependency, without the written consent of the minor or the minor's parent.

NEW SECTION. **Sec. 7.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

On page 1, line 1 of the title, after "firearms;" strike the remainder of the title and insert "amending RCW 9.41.040, 9.41.047, 9.41.060, 9.41.075, and 71.34.200; and reenacting and amending RCW 71.05.390."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1687 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representatives Moeller and Serben spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 1687 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1687, as amended by the Senate and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

SUBSTITUTE HOUSE BILL NO. 1687, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 7, 2005

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1688, with the following amendment:

Strike everything after the enacting clause and insert the following:

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

(1) Since the enactment of health planning and development legislation in 1979, the widespread adoption of new health care technologies has resulted in significant advancements in the diagnosis and treatment of disease, and has enabled substantial expansion of sites where complex care and surgery can be performed;

(2) New and existing technologies, supply sensitive health services, and demographics have a substantial effect on health care expenditures. Yet, evidence related to their effectiveness is not routinely or systematically considered in decision making regarding widespread adoption of these technologies and services. The principles of evidence-based medicine call for comprehensive review of data and studies related to a particular health care service or device, with emphasis given to high quality, objective studies. Findings regarding the effectiveness of these health services or devices should then be applied to increase the likelihood that they will be used appropriately;

(3) The standards governing whether a certificate of need should be granted in RCW 70.38.115 focus largely on broad concepts of access to and availability of health services, with only limited consideration of cost-effectiveness. Moreover, the standards do not provide explicit guidance for decision making or evaluating competing certificate of need applications; and

(4) The certificate of need statute plays a vital role and should be reexamined and strengthened to reflect changes in health care delivery and financing since its enactment.

NEW SECTION. **Sec. 2.** (1) A task force is created to study and prepare recommendations to the governor and the legislature related to improving and updating the certificate of need program in chapter 70.38 RCW. The report must be submitted to the governor and appropriate committees of the legislature by November 1, 2006.

(2) Members of the task force must be appointed by the governor. The task force members shall elect a member of the task force to serve as chair. Members of the task force include:

(a) Four representatives of the legislature, including one member appointed by each caucus of the house of representatives and the senate;

(b) Two representatives of private employer-sponsored health benefits purchasers;

(c) One representative of labor organizations that purchase health benefits through Taft-Hartley plans;

(d) One representative of health carriers;

(e) Two representatives of health care consumers;

(f) One health care economist;

(g) The secretary of the department of social and health services, or his or her designee;

(h) The administrator of the health care authority, or his or her designee;

(i) The secretary of the department of health; and

(j) Two health care provider representatives, chosen by the members of the technical advisory committee established in subsection (3) of this section, from among the members of that committee.

(3) The task force shall establish one or more technical advisory committees composed of affected health care providers and other individuals or entities who can serve as a source of technical expertise. The task force shall actively consult with, and solicit recommendations from, the technical advisory committee or committees regarding issues under consideration by the task force.

(4) Subject to the availability of amounts appropriated for this specific purpose, staff support for the task force shall be provided by the health care authority. The health care authority shall contract for technical expertise necessary to complete the responsibilities of the task force. Legislative members of the task force shall be reimbursed

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for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050.

NEW SECTION. **Sec. 3.** (1) In conducting the certificate of need study and preparing recommendations, the task force shall be guided by the following principles:

(a) The supply of a health service can have a substantial impact on utilization of the service, independent of the effectiveness, medical necessity, or appropriateness of the particular health service for a particular individual;

(b) Given that health care resources are not unlimited, the impact of any new health service or facility on overall health expenditures in the state must be considered;

(c) Given our increasing ability to undertake technology assessment and measure the quality and outcomes of health services, the likelihood that a requested new health facility, service, or equipment will improve health care quality and outcomes must be considered; and

(d) It is generally presumed that the services and facilities currently subject to certificate of need should remain subject to those requirements.

(2) The task force shall, at a minimum, examine and develop recommendations related to the following issues:

(a) The need for a new and regularly updated set of service and facility specific policies that guide certificate of need decisions;

(b) A review of the purpose and goals of the current certificate of need program, including the relationship between the supply of health services and health care outcomes and expenditures in Washington state;

(c) The scope of facilities, services, and capital expenditures that should be subject to certificate of need review, including consideration of the following:

(i) Acquisitions of major medical equipment, meaning a single unit of medical equipment or a single system of components with related functions used to provide medical and other health services;

(ii) Major capital expenditures. Capital expenditures for information technology needed to support electronic health records should be encouraged;

(iii) The offering or development of any new health services, as defined in RCW 70.38.025, that meets any of the following:

(A) The obligation of substantial capital expenditures by or on behalf of a health care facility that is associated with the addition of a health service that was not offered on a regular basis by or on behalf of the health care facility within the twelve-month period prior to the time the services would be offered;

(B) The addition of equipment or services, by transfer of ownership, acquisition by lease, donation, transfer, or acquisition of control, through management agreement or otherwise, that was not offered on a regular basis by or on behalf of the health care facility or the private office of a licensed health care provider regulated under Title 18 RCW or chapter 70.127 RCW within the twelve-month period prior to the time the services would be offered and that for the third fiscal year of operation, including a partial first year following acquisition of that equipment or service, is projected to entail substantial incremental operating costs or annual gross revenue directly attributable to that health service;

(iv) The scope of health care facilities subject to certificate of need requirements, to include consideration of hospitals, including specialty hospitals, psychiatric hospitals, nursing facilities, kidney disease treatment centers including freestanding hemodialysis facilities, rehabilitation facilities, ambulatory surgical facilities, freestanding emergency rooms or urgent care facilities, home health agencies, hospice agencies and hospice care centers, freestanding radiological service centers, freestanding cardiac catheterization centers, or cancer treatment centers. "Health care facility" includes the office of a private health care practitioner in which surgical procedures are performed;

(d) The criteria for review of certificate of need applications, as currently defined in RCW 70.38.115, with the goal of having criteria that are consistent, clear, technically sound, and reflect state law, including consideration of:

(i) Public need for the proposed services as demonstrated by certain factors, including, but not limited to:

(A) Whether, and the extent to which, the project will substantially address specific health problems as measured by health needs in the area to be served by the project;

(B) Whether the project will have a positive impact on the health status indicators of the population to be served;

(C) Whether there is a substantial risk that the project would result in inappropriate increases in service utilization or the cost of health services;

(D) Whether the services affected by the project will be accessible to all residents of the area proposed to be served; and

(E) Whether the project will provide demonstrable improvements in quality and outcome measures applicable to the services proposed in the project, including whether there is data to indicate that the proposed health services would constitute innovations in high quality health care delivery;

(ii) Impact of the proposed services on the orderly and economic development of health facilities and health resources for the state as demonstrated by:

(A) The impact of the project on total health care expenditures after taking into account, to the extent practical, both the costs and benefits of the project and the competing demands in the local service area and statewide for available resources for health care;

(B) The impact of the project on the ability of existing affected providers and facilities to continue to serve uninsured or underinsured residents of the community and meet demands for emergency care;

(C) The availability of state funds to cover any increase in state costs associated with utilization of the project's services; and

(D) The likelihood that more effective, more accessible, or less costly alternative technologies or methods of service delivery may become available;

(e) The timeliness and consistency of certificate of need reviews and decisions, the sufficiency and use of resources available to the department of health to conduct timely reviews, the means by which the department of health projects future need for services, the ability to reflect differences among communities and approaches to providing services, and clarification on the use of the concurrent review process; and

(f) Mechanisms to monitor ongoing compliance with the assumptions made by facilities that have received either a certificate of need or an exemption to a certificate of need, including those related to volume, the provision of charity care, and access to health services to medicaid and medicare beneficiaries as well as underinsured and uninsured members of the community.

(3) In developing its recommendations, the task force shall consider the results of a performance audit of the department of health regarding its administration and implementation of the certificate of need program. The audit shall be conducted by the joint

legislative audit and review committee, and be completed by July 1, 2006.

NEW SECTION. **Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2005, in the omnibus appropriations act, this act is null and void."

On page 1, line 2 of the title, after "issues;" strike the remainder of the title and insert "and creating new sections."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1688 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representatives Cody and Bailey spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed Second Substitute House Bill No. 1688 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1688, as amended by the Senate and the bill passed the House by the following vote: Yeas - 80, Nays - 18, Absent - 0, Excused - 0.

Voting yea: Representatives Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Conway, Cox, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Nixon, O'Brien, Ormsby, Pettigrew, Priest, Quall, Roberts, Rodne, Santos, Schual-Berke, Sells, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 80.

Voting nay: Representatives Ahern, Alexander, Condotta, Crouse, Curtis, DeBolt, Dunn, Hinkle, Holmquist, Kretz, Kristiansen, Newhouse, Orcutt, Pearson, Roach, Schindler, Serben and Sump - 18.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1688, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 15, 2005

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1756, with the following amendment:

Strike everything after the enacting clause and insert the following:

"**PART I - CITY FIRE DEPARTMENTS**

NEW SECTION. **Sec. 101.** The legislature intends for city fire departments to set standards for addressing the reporting and accountability of substantially career fire departments, and to specify performance measures applicable to response time objectives for certain major services. The legislature acknowledges the efforts of the international city/county management association, the international association of fire chiefs, and the national fire protection association for the organization and deployment of resources for fire departments. The arrival of first responders with automatic external defibrillator capability before the onset of brain death, and the arrival of adequate fire suppression resources before flash-over is a critical event during the mitigation of an emergency, and is in the public's best interest. For these reasons, this chapter contains performance measures, comparable to that research, relating to the organization and deployment of fire suppression operations, emergency medical operations, and special operations by substantially career fire departments. This chapter does not, and is not intended to, in any way modify or limit the authority of cities and towns to set levels of service.

NEW SECTION. **Sec. 102.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advanced life support" means functional provision of advanced airway management, including intubation, advanced cardiac monitoring, manual defibrillation, establishment and maintenance of intravenous access, and drug therapy.

(2) "Aircraft rescue and fire fighting" means the fire fighting actions taken to rescue persons and to control or extinguish fire involving or adjacent to aircraft on the ground.

(3) "Brain death" as defined by the American heart association means the irreversible death of brain cells that begins four to six minutes after cardiac arrest.

(4) "City" means a first class city or a second class city that provides fire protection services in a specified geographic area.

(5) "Fire department" means a city or town fire department responsible for fire fighting actions, emergency medical services, and other special operations in a specified geographic area. The department must be a substantially career fire department, and not a substantially volunteer fire department.

(6) "Fire suppression" means the activities involved in controlling and extinguishing fires.

(7) "First responder" means provision of initial assessment and basic first-aid intervention, including cardiac pulmonary resuscitation and automatic external defibrillator capability.

(8) "Flash-over" as defined by national institute of standards and technology means when all combustibles in a room burst into flame and the fire spreads rapidly.

(9) "Marine rescue and fire fighting" means the fire fighting actions taken to prevent, control, or extinguish fire involved in or adjacent to a marine vessel and the rescue actions for occupants using normal and emergency routes for egress.

(10) "Response time" means the time immediately following the turnout time that begins when units are en route to the emergency incident and ends when units arrive at the scene.

(11) "Special operations" means those emergency incidents to which the fire department responds that require specific and advanced training and specialized tools and equipment.

(12) "Town" means a town that provides fire protection services, which may include fire fighting actions, emergency medical services, and other special operations, in a specified geographic area.

(13) "Turnout time" means the time beginning when units receive notification of the emergency to the beginning point of response time.

NEW SECTION. **Sec. 103.** (1) Every city and town shall maintain a written statement or policy that establishes the following:

(a) The existence of a fire department;

(b) Services that the fire department is required to provide;

(c) The basic organizational structure of the fire department;

(d) The expected number of fire department employees; and

(e) Functions that fire department employees are expected to perform.

(2) Every city and town shall include service delivery objectives in the written statement or policy required under subsection (1) of this section. These objectives shall include specific response time objectives for the following major service components, if appropriate:

(a) Fire suppression;

(b) Emergency medical services;

(c) Special operations;

(d) Aircraft rescue and fire fighting;

(e) Marine rescue and fire fighting; and

(f) Wild land fire fighting.

(3) Every city and town, in order to measure the ability to arrive and begin mitigation operations before the critical events of brain death or flash-over, shall establish time objectives for the following measurements:

(a) Turnout time;

(b) Response time for the arrival of the first arriving engine company at a fire suppression incident and response time for the deployment of a full first alarm assignment at a fire suppression incident;

(c) Response time for the arrival of a unit with first responder or higher level capability at an emergency medical incident; and

(d) Response time for the arrival of an advanced life support unit at an emergency medical incident, where this service is provided by the fire department.

(4) Every city and town shall also establish a performance objective of not less than ninety percent for the achievement of each response time objective established under subsection (3) of this section.

NEW SECTION. **Sec. 104.** (1) Every city and town shall evaluate its level of service and deployment delivery and response time objectives on an annual basis. The evaluations shall be based on data relating to level of service, deployment, and the achievement of each response time objective in each geographic area within the jurisdiction of the city or town.

(2) Beginning in 2007, every city and town shall issue an annual written report which shall be based on the annual evaluations required by subsection (1) of this section.

(a) The annual report shall define the geographic areas and circumstances in which the requirements of this standard are not being met.

(b) The annual report shall explain the predictable consequences of any deficiencies and address the steps that are necessary to achieve compliance.

PART II - CODE CITY FIRE DEPARTMENTS

NEW SECTION. **Sec. 201.** The legislature intends for code cities to set standards for addressing the reporting and accountability of substantially career fire departments, and to specify performance measures applicable to response time objectives for certain major services. The legislature acknowledges the efforts of the international city/county management association, the international association of fire chiefs, and the national fire protection association for the organization and deployment of resources for fire departments. The arrival of first responders with automatic external defibrillator capability before the onset of brain death, and the arrival of adequate fire suppression resources before flash-over is a critical event during the mitigation of an emergency, and is in the public's best interest. For these reasons, this chapter contains performance measures, comparable to that research, relating to the organization and deployment of fire suppression operations, emergency medical operations, and special operations by substantially career fire departments. This chapter does not, and is not intended to, in any way modify or limit the authority of code cities to set levels of service.

NEW SECTION. **Sec. 202.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advanced life support" means functional provision of advanced airway management, including intubation, advanced cardiac monitoring, manual defibrillation, establishment and maintenance of intravenous access, and drug therapy.

(2) "Aircraft rescue and fire fighting" means the fire fighting actions taken to rescue persons and to control or extinguish fire involving or adjacent to aircraft on the ground.

(3) "Brain death" as defined by the American heart association means the irreversible death of brain cells that begins four to six minutes after cardiac arrest.

(4) "Code city" means a code city that provides fire protection services, which may include fire fighting actions, emergency medical services, and other special operations, in a specified geographic area.

(5) "Fire department" means a code city fire department responsible for fire fighting actions, emergency medical services, and other special operations in a specified geographic area. The department must be a substantially career fire department, and not a substantially volunteer fire department.

(6) "Fire suppression" means the activities involved in controlling and extinguishing fires.

(7) "First responder" means provision of initial assessment and basic first-aid intervention, including cardiac pulmonary resuscitation and automatic external defibrillator capability.

(8) "Flash-over" as defined by national institute of standards and technology means when all combustibles in a room burst into flame and the fire spreads rapidly.

(9) "Marine rescue and fire fighting" means the fire fighting actions taken to prevent, control, or extinguish fire involved in or adjacent to a marine vessel and the rescue actions for occupants using normal and emergency routes for egress.

(10) "Response time" means the time immediately following the turnout time that begins when units are en route to the emergency incident and ends when units arrive at the scene.

(11) "Special operations" means those emergency incidents to which the fire department responds that require specific and advanced training and specialized tools and equipment.

(12) "Turnout time" means the time beginning when units receive notification of the emergency to the beginning point of response time.

NEW SECTION. **Sec. 203.** (1) Every code city shall maintain a written statement or policy that establishes the following:

(a) The existence of a fire department;

(b) Services that the fire department is required to provide;

(c) The basic organizational structure of the fire department;

(d) The expected number of fire department employees; and

(e) Functions that fire department employees are expected to perform.

(2) Every code city shall include service delivery objectives in the written statement or policy required under subsection (1) of this section. These objectives shall include specific response time objectives for the following major service components, if appropriate:

(a) Fire suppression;

(b) Emergency medical services;

(c) Special operations;

(d) Aircraft rescue and fire fighting;

(e) Marine rescue and fire fighting; and

(f) Wild land fire fighting.

(3) Every code city, in order to measure the ability to arrive and begin mitigation operations before the critical events of brain death or flash-over, shall establish time objectives for the following measurements:

(a) Turnout time;

(b) Response time for the arrival of the first arriving engine company at a fire suppression incident and response time for the deployment of a full first alarm assignment at a fire suppression incident;

(c) Response time for the arrival of a unit with first responder or higher level capability at an emergency medical incident; and

(d) Response time for the arrival of an advanced life support unit at an emergency medical incident, where this service is provided by the fire department.

(4) Every code city shall also establish a performance objective of not less than ninety percent for the achievement of each response time objective established under subsection (3) of this section.

NEW SECTION. **Sec. 204.** (1) Every code city shall evaluate its level of service and deployment delivery and response time objectives on an annual basis. The evaluations shall be based on data relating to level of service, deployment, and the achievement of each response time objective in each geographic area within the code city's jurisdiction.

(2) Beginning in 2007, every code city shall issue an annual written report which shall be based on the annual evaluations required by subsection (1) of this section.

(a) The annual report shall define the geographic areas and circumstances in which the requirements of this standard are not being met.

(b) The annual report shall explain the predictable consequences of any deficiencies and address the steps that are necessary to achieve compliance.

PART III - FIRE PROTECTION DISTRICTS AND REGIONAL FIRE PROTECTION SERVICE AUTHORITIES

NEW SECTION. **Sec. 301.** The legislature intends for fire protection districts and regional fire service authorities to set standards for addressing the reporting and accountability of substantially career fire departments, and to specify performance measures applicable to response time objectives for certain major services. The legislature acknowledges the efforts of the international city/county management association, the international association of fire chiefs, and the national fire protection association for the organization and deployment of resources for fire departments. The arrival of first responders with automatic external defibrillator capability before the onset of brain death, and the arrival of adequate fire suppression resources before flash-over is a critical event during the mitigation of an emergency, and is in the public's best interest. For these reasons, this chapter contains performance measures, comparable to that research, relating to the organization and deployment of fire suppression operations, emergency medical operations, and special operations by substantially career fire departments. This chapter does not, and is not intended to, in any way modify or limit the authority of fire protection districts and regional fire protection service authorities to set levels of service.

NEW SECTION. **Sec. 302.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advanced life support" means functional provision of advanced airway management, including intubation, advanced cardiac monitoring, manual defibrillation, establishment and maintenance of intravenous access, and drug therapy.

(2) "Aircraft rescue and fire fighting" means the fire fighting actions taken to rescue persons and to control or extinguish fire involving or adjacent to aircraft on the ground.

(3) "Brain death" as defined by the American heart association means the irreversible death of brain cells that begins four to six minutes after cardiac arrest.

(4) "Fire department" means a fire protection district or a regional fire protection service authority responsible for fire fighting actions, emergency medical services, and other special operations in a specified geographic area. The department must be a substantially career fire department, and not a substantially volunteer fire department.

(5) "Fire suppression" means the activities involved in controlling and extinguishing fires.

(6) "First responder" means provision of initial assessment and basic first-aid intervention, including cardiac pulmonary resuscitation and automatic external defibrillator capability.

(7) "Flash-over" as defined by national institute of standards and technology means when all combustibles in a room burst into flame and the fire spreads rapidly.

(8) "Marine rescue and fire fighting" means the fire fighting actions taken to prevent, control, or extinguish fire involved in or adjacent to a marine vessel and the rescue actions for occupants using normal and emergency routes for egress.

(9) "Response time" means the time immediately following the turnout time that begins when units are en route to the emergency incident and ends when units arrive at the scene.

(10) "Special operations" means those emergency incidents to which the fire department responds that require specific and advanced training and specialized tools and equipment.

(11) "Turnout time" means the time beginning when units receive notification of the emergency to the beginning point of response time.

NEW SECTION. **Sec. 303.** (1) Every fire protection district and regional fire protection service authority shall maintain a written statement or policy that establishes the following:

(a) The existence of a fire department;

(b) Services that the fire department is required to provide;

(c) The basic organizational structure of the fire department;

(d) The expected number of fire department employees; and

(e) Functions that fire department employees are expected to perform.

(2) Every fire protection district and regional fire protection service authority shall include service delivery objectives in the written statement or policy required under subsection (1) of this section. These objectives shall include specific response time objectives for the following major service components, if appropriate:

(a) Fire suppression;

(b) Emergency medical services;

(c) Special operations;

(d) Aircraft rescue and fire fighting;

(e) Marine rescue and fire fighting; and

(f) Wild land fire fighting.

(3) Every fire protection district and regional fire protection service authority, in order to measure the ability to arrive and begin mitigation operations before the critical events of brain death or flash-over, shall establish time objectives for the following measurements:

(a) Turnout time;

(b) Response time for the arrival of the first arriving engine company at a fire suppression incident and response time for the deployment of a full first alarm assignment at a fire suppression incident;

(c) Response time for the arrival of a unit with first responder or higher level capability at an emergency medical incident; and

(d) Response time for the arrival of an advanced life support unit at an emergency medical incident, where this service is provided by the fire department.

(4) Every fire protection district and regional fire protection service authority shall also establish a performance objective of not less than ninety percent for the achievement of each response time objective established under subsection (3) of this section.

NEW SECTION. **Sec. 304.** (1) Every fire protection district and regional fire protection service authority shall evaluate its level of service and deployment delivery and response time objectives on an annual basis. The evaluations shall be based on data relating to level of service, deployment, and the achievement of each response time objective in each geographic area within the jurisdiction of the fire protection district and regional fire protection service authority.

(2) Beginning in 2007, every fire protection district and regional fire protection service authority shall issue an annual written report which shall be based on the annual evaluations required by subsection (1) of this section.

(a) The annual report shall define the geographic areas and circumstances in which the requirements of this standard are not being met.

(b) The annual report shall explain the predictable consequences of any deficiencies and address the steps that are necessary to achieve compliance.

PART IV - PORT DISTRICTS

NEW SECTION. **Sec. 401.** The legislature intends for port districts to set standards for addressing the reporting and accountability of substantially career fire departments, and to specify performance measures applicable to response time objectives for certain major services. The legislature acknowledges the efforts of the international city/county management association, the international association of fire chiefs, and the national fire protection association for the organization and deployment of resources for fire departments. The arrival of first responders with automatic external defibrillator capability before the onset of brain death, and the arrival of adequate fire suppression resources before flash-over is a critical event during the mitigation of an emergency, and is in the public's best interest. For these reasons, this chapter contains performance measures, comparable to that research, relating to the organization and deployment of fire suppression operations, emergency medical operations, and special operations by substantially career fire departments. This chapter does not, and is not intended to, in any way modify or limit the authority of port districts to set levels of service.

NEW SECTION. **Sec. 402.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advanced life support" means functional provision of advanced airway management, including intubation, advanced cardiac monitoring, manual defibrillation, establishment and maintenance of intravenous access, and drug therapy.

(2) "Aircraft rescue and fire fighting" means the fire fighting actions taken to rescue persons and to control or extinguish fire involving or adjacent to aircraft on the ground.

(3) "Brain death" as defined by the American heart association means the irreversible death of brain cells that begins four to six minutes after cardiac arrest.

(4) "Fire department" means a port district fire department responsible for fire fighting actions, emergency medical services, and other special operations in a specified geographic area. The department must be a substantially career fire department, and not a substantially volunteer fire department.

(5) "Fire suppression" means the activities involved in controlling and extinguishing fires.

(6) "First responder" means provision of initial assessment and basic first-aid intervention, including cardiac pulmonary resuscitation and automatic external defibrillator capability.

(7) "Flash-over" as defined by national institute of standards and technology means when all combustibles in a room burst into flame and the fire spreads rapidly.

(8) "Marine rescue and fire fighting" means the fire fighting actions taken to prevent, control, or extinguish fire involved in or adjacent to a marine vessel and the rescue actions for occupants using normal and emergency routes for egress.

(9) "Port" means a port district that provides fire protection services, which may include fire fighting actions, emergency medical services, and other special operations, in a specified geographic area.

(10) "Response time" means the time immediately following the turnout time that begins when units are en route to the emergency incident and ends when units arrive at the scene.

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(11) "Special operations" means those emergency incidents to which the fire department responds that require specific and advanced training and specialized tools and equipment.

(12) "Turnout time" means the time beginning when units receive notification of the emergency to the beginning point of response time.

NEW SECTION. **Sec. 403.** (1) Every port shall maintain a written statement or policy that establishes the following:

(a) The existence of a fire department;

(b) Services that the fire department is required to provide;

(c) The basic organizational structure of the fire department;

(d) The expected number of fire department employees; and

(e) Functions that fire department employees are expected to perform.

(2) Every port shall include service delivery objectives in the written statement or policy required under subsection (1) of this section. These objectives shall include specific response time objectives for the following major service components, if appropriate:

(a) Fire suppression;

(b) Emergency medical services;

(c) Special operations;

(d) Aircraft rescue and fire fighting;

(e) Marine rescue and fire fighting; and

(f) Wild land fire fighting.

(3) Every port, in order to measure the ability to arrive and begin mitigation operations before the critical events of brain death or flash-over, shall establish time objectives for the following measurements:

(a) Turnout time;

(b) Response time for the arrival of the first arriving engine company at a fire suppression incident and response time for the deployment of a full first alarm assignment at a fire suppression incident;

(c) Response time for the arrival of a unit with first responder or higher level capability at an emergency medical incident; and

(d) Response time for the arrival of an advanced life support unit at an emergency medical incident, where this service is provided by the fire department.

(4) Every port shall also establish a performance objective of not less than ninety percent for the achievement of each response time objective established under subsection (3) of this section.

(5) An annual part 139 inspection and certification by the federal aviation administration shall be considered to meet the requirements of this section.

NEW SECTION. **Sec. 404.** (1) Every port shall evaluate its level of service and deployment delivery and response time objectives on an annual basis. The evaluations shall be based on data relating to level of service, deployment, and the achievement of each response time objective in each geographic area within the port's jurisdiction.

(2) Beginning in 2007, every port shall issue an annual written report which shall be based on the annual evaluations required by subsection (1) of this section.

(a) The annual report shall define the geographic areas and circumstances in which the requirements of this standard are not being met.

(b) The annual report shall explain the predictable consequences of any deficiencies and address the steps that are necessary to achieve compliance.

(3) An annual part 139 inspection and certification by the federal aviation administration shall be considered to meet the requirements of this section.

PART V - MISCELLANEOUS PROVISIONS

NEW SECTION. **Sec. 501.** Part headings used in this act are not any part of the law.

NEW SECTION. **Sec. 502.** (1) Sections 101 through 104 of this act constitute a new chapter in Title 35 RCW.

(2) Sections 201 through 204 of this act constitute a new chapter in Title 35A RCW.

(3) Sections 301 through 304 of this act constitute a new chapter in Title 52 RCW.

(4) Sections 401 through 404 of this act constitute a new chapter in Title 53 RCW."

On page 1, line 2 of the title, after "employees;" strike the remainder of the title and insert "adding a new chapter to Title 35 RCW; adding a new chapter to Title 35A RCW; adding a new chapter to Title 52 RCW; adding a new chapter to Title 53 RCW; and creating a new section."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1756 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representatives Conway and Condotta spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 1756 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1756, as amended by the Senate and the bill passed the House by the following vote: Yeas - 96, Nays - 2, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Nixon, O'Brien, Orcutt,

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Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 96.

Voting nay: Representatives Chandler and Newhouse - 2.

SUBSTITUTE HOUSE BILL NO. 1756, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 8, 2005

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1799, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that law enforcement functions at state parks and lands are insufficient to adequately protect the public and our natural resources. Threats to the safety of the visiting public and public lands are not necessarily confined to the boundaries of state parks and lands. State law does not expressly grant or deny park rangers the authority to engage in law enforcement activities outside of park and land boundaries. Further, the legislature finds that, in many areas of the state, other state or local law enforcement officers are either too far away or understaffed to provide adequate support to on-site law enforcement professionals in emergency situations. The legislature finds that a comprehensive review of the role and responsibilities of law enforcement professionals within and around state parks and lands is necessary to ensure the value of state parks and natural resources is not diminished.

NEW SECTION. **Sec. 2.** (1) The task force on state public recreational lands and public safety is created. The task force shall be comprised of twelve members appointed as follows:

(a) Two members of the house of representatives, one from each major caucus, to be appointed by the speaker of the house of representatives;

(b) Two members of the senate, one from each major caucus, to be appointed by the president of the senate;

(c) The commissioner of public lands or his or her designee;

(d) The chair of the Washington state parks and recreation commission or his or her designee;

(e) The chair of the Washington fish and wildlife commission or his or her designee;

(f) Five members, to be appointed jointly by the speaker of the house of representatives and the president of the senate, from nominations submitted by the following organizations:

(i) One representative of the Washington association of sheriffs and police chiefs;

(ii) One representative of the Washington state council of police and sheriffs;

(iii) One representative of the Washington association of prosecuting attorneys;

(iv) One representative park ranger who is an active member of the recognized employee bargaining unit and who is employed by the Washington state parks and recreation commission; and

(v) One recognized employee representative of enforcement officers with the department of natural resources.

(2) The task force members shall elect a chair and determine its operating procedures. The task force shall be jointly staffed by the office of program research and senate committee services as determined by their respective staff directors.

(a) Legislative members of the task force shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(b) The compensable travel expenses as provided in (a) of this subsection shall be paid jointly by the senate and the house of representatives.

(3) This section expires January 1, 2006.

NEW SECTION. **Sec. 3.** The task force shall conduct a comprehensive review of law enforcement issues in and around state parks and lands, including but not limited to:

(1) The extent to which illegal activity in and around state parks and lands threatens public safety and natural resources; and

(2) The ability of the current state and local law enforcement to respond to illegal activity on or near public recreational lands.

NEW SECTION. **Sec. 4.** By December 15, 2005, the task force shall provide a final report of its recommendations, including any draft legislation to implement the recommendations. The report shall be submitted to the chief clerk of the house of representatives and the secretary of the senate."

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

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1799 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representative O'Brien spoke in favor the passage of the bill.

Representative Pearson spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed Substitute House Bill No. 1799 as amended by the Senate.

ROLL CALL

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The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1799, as amended by the Senate and the bill passed the House by the following vote: Yeas - 64, Nays - 34, Absent - 0, Excused - 0.

Voting yea: Representatives Appleton, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Nixon, O'Brien, Ormsby, Pettigrew, Priest, Quall, Roberts, Santos, Schindler, Schual-Berke, Sells, Shabro, Simpson, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Takko, Upthegrove, Wallace, Williams, Wood, and Mr. Speaker - 64.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Chandler, Clements, Condotta, Cox, Crouse, Curtis, DeBolt, Dunn, Ericksen, Haler, Hinkle, Holmquist, Kretz, Kristiansen, McDonald, Newhouse, Orcutt, Pearson, Roach, Rodne, Serben, Skinner, Sump, Talcott, Tom, Walsh, and Woods - 34.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1799, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 8, 2005

Mr. Speaker:

The Senate has passed ENGROSSED HOUSE BILL NO. 1848, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** APPLICABILITY. (1)(a) Sections 2 through 10 of this act apply to any multiunit residential building for which the permit for construction or rehabilitative construction of such building was issued on or after the effective date of this act.

(b) Sections 2 and 10 of this act apply to conversion condominiums as defined in RCW 64.34.020, provided that section 10 of this act shall not apply to a condominium conversion for which a public offering statement had been delivered pursuant to chapter 64.34 RCW prior to the effective date of this act.

(2) Sections 2 and 11 through 18 of this act apply to any action that alleges breach of an implied or express warranty under chapter 64.34 RCW or that seeks relief that could be awarded for such breach, regardless of the legal theory pled, except that sections 11 through 18 of this act shall not apply to:

(a) Actions filed or served prior to the effective date of this act;

(b) Actions for which a notice of claim was served pursuant to chapter 64.50 RCW prior to the effective date of this act;

(c) Actions asserting any claim regarding a building that is not a multiunit residential building;

(d) Actions asserting any claim regarding a multiunit residential building that was permitted on or after the effective date of this act unless the letter required by section 7 of this act has been submitted to the appropriate building department or the requirements of section 10 of this act have been satisfied.

(3) Other than the requirements imposed by sections 2 through 10 of this act, nothing in this chapter amends or modifies the provisions of RCW 64.34.050.

NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context clearly requires otherwise, the definitions in RCW 64.34.020 and in this section apply throughout this chapter.

(1) "Attached dwelling unit" means any dwelling unit that is attached to another dwelling unit by a wall, floor, or ceiling that separates heated living spaces. A garage is not a heated living space.

(2) "Building enclosure" means that part of any building, above or below grade, that physically separates the outside or exterior environment from interior environments and which weatherproofs, waterproofs, or otherwise protects the building or its components from water or moisture intrusion. Interior environments consist of both heated and unheated enclosed spaces. The building enclosure includes, but is not limited to, that portion of roofs, walls, balcony support columns, decks, windows, doors, vents, and other penetrations through exterior walls, which waterproof, weatherproof, or otherwise protect the building or its components from water or moisture intrusion.

(3) "Building enclosure design documents" means plans, details, and specifications for the building enclosure that have been stamped by a licensed engineer or architect. The building enclosure design documents shall include details and specifications that are appropriate for the building in the professional judgment of the architect or engineer which prepared the same to waterproof, weatherproof, and otherwise protect the building or its components from water or moisture intrusion, including details of flashing, intersections at roof, eaves or parapets, means of drainage, water-resistive membrane, and details around openings.

(4) "Developer" means:

(a) With respect to a condominium or a conversion condominium, the declarant; and

(b) With respect to all other buildings, an individual, group of individuals, partnership, corporation, association, municipal corporation, state agency, or other entity or person that obtains a building permit for the construction or rehabilitative reconstruction of a multiunit residential building. If a permit is obtained by service providers such as architects, contractors, and consultants who obtain permits for others as part of services rendered for a fee, the person for whom the permit is obtained shall be the developer, not the service provider.

(5) "Dwelling unit" has the meaning given to that phrase or similar phrases in the ordinances of the jurisdiction issuing the permit for construction of the building enclosure but if such ordinances do not provide a definition, then "dwelling unit" means a residence containing living, cooking, sleeping, and sanitary facilities.

(6) "Multiunit residential building" means:

(a) A building containing more than two attached dwelling units, including a building containing nonresidential units if the building also contains more than two attached dwelling units, but excluding the following classes of buildings:

(i) Hotels and motels;

(ii) Dormitories;

(iii) Care facilities;

(iv) Floating homes;

(v) A building that contains attached dwelling units that are each located on a single platted lot, except as provided in (b) of this subsection.

(vi) A building in which all of the dwelling units are held under one ownership and is subject to a recorded irrevocable sale prohibition covenant.

(b) If the developer submits to the appropriate building department when applying for the building permit described in section 3 of this act a statement that the developer elects to treat the improvement for which a permit is sought as a multiunit residential building for all purposes under this chapter, then "multiunit residential building" also means the following buildings for which such election has been made:

(i) A building containing only two attached dwelling units;

(ii) A building that does not contain attached dwelling units; and

(iii) Any building that contains attached dwelling units each of which is located on a single platted lot.

(7) "Party unit owner" means a unit owner who is a named party to an action subject to this chapter and does not include any unit owners whose involvement with the action stems solely from their membership in the association.

(8) "Qualified building inspector" means a person satisfying the requirements of section 5 of this act.

(9) "Rehabilitative construction" means construction work on the building enclosure of a multiunit residential building if the cost of such construction work is more than five percent of the assessed value of the building.

(10) "Sale prohibition covenant" means a recorded covenant that prohibits the sale or other disposition of individual dwelling units as or as part of a condominium for five years or more from the date of first occupancy except as otherwise provided in section 10 of this act, a certified copy of which the developer shall submit to the appropriate building department; provided such covenant shall not apply to sales or dispositions listed in RCW 64.34.400(2). The covenant must be recorded in the county in which the building is located and must be in substantially the following form:

> This covenant has been recorded in the real property records of . . . . . County, Washington, in satisfaction of the requirements of sections 2 through 10 of this act. The undersigned is the owner of the property described on Exhibit A (the "Property"). Until termination of this covenant, no dwelling unit in or on the Property may be sold as a condominium unit except for sales listed in RCW 64.34.400(2).
>
> This covenant terminates on the earlier of either: (a) Compliance with the requirements of section 10 of this act, as certified by the owner of the Property in a recorded supplement hereto; or (b) the fifth anniversary of the date of first occupancy of a dwelling unit as certified by the Owner in a recorded supplement hereto.
>
> All title insurance companies and persons acquiring an interest in the Property may rely on the forgoing certifications without further inquiry in issuing any policy of title insurance or in acquiring an interest in the Property.

(11) "Stamped" means bearing the stamp and signature of the responsible licensed architect or engineer on the title page, and on every sheet of the documents, drawings, or specifications, including modifications to the documents, drawings, and specifications that become part of change orders or addenda to alter those documents, drawings, or specifications.

NEW SECTION. **Sec. 3.** DESIGN DOCUMENTS. (1) Any person applying for a building permit for construction of a multiunit residential building or rehabilitative construction shall submit building enclosure design documents to the appropriate building department prior to the start of construction or rehabilitative construction of the building enclosure. If construction work on a building enclosure is not rehabilitative construction because the cost thereof is not more than five percent of the assessed value of the building, then the person applying for a building permit shall submit to the building department a letter so certifying. Any changes to the building enclosure design documents that alter the manner in which the building or its components is waterproofed, weatherproofed, and otherwise protected from water or moisture intrusion shall be stamped by the architect or engineer and shall be provided to the building department and to the person conducting the course of construction inspection in a timely manner to permit such person to inspect for compliance therewith, and may be provided through individual updates, cumulative updates, or as-built updates.

(2) The building department shall not issue a building permit for construction of the building enclosure of a multiunit residential building or for rehabilitative construction unless the building enclosure design documents contain a stamped statement by the person stamping the building enclosure design documents in substantially the following form: "The undersigned has provided building enclosure documents that in my professional judgment are appropriate to satisfy the requirements of sections 1 through 10 of this act."

(3) The building department is not charged with determining whether the building enclosure design documents are adequate or appropriate to satisfy the requirements of sections 1 through 10 of this act. Nothing in sections 1 through 10 of this act requires a building department to review, approve, or disapprove enclosure design documents.

NEW SECTION. **Sec. 4.** INSPECTIONS. All multiunit residential buildings shall have the building enclosure inspected by a qualified inspector during the course of initial construction and during rehabilitative construction.

NEW SECTION. **Sec. 5.** INSPECTORS--QUALIFICATIONS--INDEPENDENCE. (1) A qualified building enclosure inspector:

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

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

(c) May not be an employee, officer, or director of, nor have any pecuniary interest in, the declarant, developer, association, or any party providing services or materials for the project, or any of their respective affiliates, except that the qualified inspector may be the architect or engineer who approved the building enclosure design documents or the architect or engineer of record. The qualified inspector may, but is not required to, assist with the preparation of such design documents.

(2) Nothing in this section alters requirements for licensure of any architect, engineer, or other professional, or alters the jurisdiction, authority, or scope of practice of architects, engineers, other professionals, or general contractors.

NEW SECTION. **Sec. 6.** SCOPE OF INSPECTION. (1) Any inspection required by this chapter shall include, at a minimum, the following:

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

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

(2) Subsection (1)(a) of this section shall not apply to rehabilitative construction if the windows and adjacent cladding are not altered in the rehabilitative construction.

(3) "Project" means one or more parcels of land in a single ownership, which are under development pursuant to a single land use approval or building permit, where window installation is performed by the owner with its own forces, or by the same general contractor, or, if the owner is contracting directly with trade contractors, is performed by the same trade contractor.

NEW SECTION. **Sec. 7.** CERTIFICATION--CERTIFICATE OF OCCUPANCY. Upon completion of an inspection required by this chapter, the qualified inspector shall prepare and submit to the appropriate building department a signed letter certifying that the building enclosure has been inspected during the course of construction or rehabilitative construction and that it has been constructed or reconstructed in substantial compliance with the building enclosure design documents, as updated pursuant to section 3 of this act. The building department shall not issue a final certificate of occupancy or other equivalent final acceptance until the letter required by this section has been submitted. The building department is not charged with and has no responsibility for determining whether the building enclosure inspection is adequate or appropriate to satisfy the requirements of this chapter.

NEW SECTION. **Sec. 8.** INSPECTOR, ARCHITECT, AND ENGINEER LIABILITY. (1) Nothing in this act is intended to, or does:

(a) Create a private right of action against any inspector, architect, or engineer based upon compliance or noncompliance with its provisions; or

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

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

NEW SECTION. **Sec. 9.** NO EVIDENTIARY PRESUMPTION--ADMISSIBILITY. A qualified inspector's report or testimony regarding an inspection conducted pursuant to this chapter is not entitled to any evidentiary presumption in any arbitration or court proceeding. Nothing in this chapter restricts the admissibility of such a report or testimony, and questions of the admissibility of such a report or testimony shall be determined under the rules of evidence.

NEW SECTION. **Sec. 10.** NO SALE OF CONDOMINIUM UNIT ABSENT COMPLIANCE. (1) Except for sales or other dispositions listed in RCW 64.34.400(2), no declarant may convey a condominium unit that may be occupied for residential use in a multiunit residential building without first complying with the requirements of sections 1 through 9 of this act unless the building enclosure of the building in which such unit is included is inspected by a qualified building enclosure inspector, and:

(a) The inspection includes such intrusive or other testing, such as the removal of siding or other building enclosure materials, that the inspector believes, in his or her professional judgment, is necessary to ascertain the manner in which the building enclosure was constructed;

(b) The inspection evaluates, to the extent reasonably ascertainable and in the professional judgment of the inspector, the present condition of the building enclosure including whether such condition has adversely affected or will adversely affect the performance of the building enclosure to waterproof, weatherproof, or otherwise protect the building or its components from water or moisture intrusion. "Adversely affect" has the same meaning as provided in RCW 64.34.445(7);

(c) The inspection report includes recommendations for repairs to the building enclosure that, in the professional judgment of the qualified building inspector, are necessary to: (i) Repair a design or construction defect in the building enclosure that results in the failure of the building enclosure to perform its intended function and allows unintended water penetration not caused by flooding; and (ii) repair damage caused by such a defect that has an adverse effect as provided in RCW 64.34.445(7);

(d) With respect to a building that would be a multiunit residential building but for the recording of a sale prohibition covenant and unless more than five years have elapsed since the date such covenant was recorded, all repairs to the building enclosure recommended pursuant to (c) of this subsection have been made; and

(e) The declarant provides as part of the public offering statement, consistent with RCW 64.34.410 (1)(nn) and (2) and 64.34.415(1)(b), an inspection and repair report signed by the qualified building enclosure inspector that identifies:

(i) The extent of the inspection performed pursuant to this section;

(ii) The information obtained as a result of that inspection; and

(iii) The manner in which any repairs required by this section were performed, the scope of those repairs, and the names of the persons performing those repairs.

(2) Failure to deliver the inspection and repair report in violation of this section constitutes a failure to deliver a public offering statement for purposes of chapter 64.34 RCW.

NEW SECTION. **Sec. 11.** ARBITRATION--ELECTION--NUMBER OF ARBITRATORS--QUALIFICATIONS--TRIAL DE NOVO. (1) If the declarant, an association, or a party unit owner demands an arbitration by filing such demand with the court not less than thirty and not more than ninety days after filing or service of the complaint, whichever is later, the parties shall participate in a private arbitration hearing. The declarant, the association, and the party unit owner do not have the right to compel arbitration without giving timely notice in compliance with this subsection. Unless otherwise agreed by the parties, the arbitration hearing shall commence no more

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than fourteen months from the later of the filing or service of the complaint.

(2) Unless otherwise agreed by the parties, claims that in aggregate are for less than one million dollars shall be heard by a single arbitrator and all other claims shall be heard by three arbitrators. As used in this chapter, arbitrator also means arbitrators where applicable.

(3) Unless otherwise agreed by the parties, the court shall appoint the arbitrator, who shall be a current or former attorney with experience as an attorney, judge, arbitrator, or mediator in construction defect disputes involving the application of Washington law.

(4) Upon conclusion of the arbitration hearing, the arbitrator shall file the decision and award with the clerk of the superior court, together with proof of service thereof on the parties. Within twenty days after the filing of the decision and award, any aggrieved party may file with the clerk a written notice of appeal and demand for a trial de novo in the superior court on all claims between the appealing party and an adverse party. As used in this section, "adverse party" means the party who either directly asserted or defended claims against the appealing party. The demand shall identify the adverse party or parties and all claims between those parties shall be included in the trial de novo. The right to a trial de novo includes the right to a jury, if demanded. The court shall give priority to the trial date for the trial de novo.

(5) If the judgment for damages, not including awards of fees and costs, in the trial de novo is not more favorable to the appealing party than the damages awarded by the arbitrator, not including awards of fees and costs, the appealing party shall pay the nonappealing adverse party's costs and fees incurred after the filing of the appeal, including reasonable attorneys' fees so incurred.

(6) If the judgment for damages, not including awards of fees and costs, in the trial de novo is more favorable to the appealing party than the damages awarded by the arbitrator, not including awards of fees and costs, then the court may award costs and fees, including reasonable attorneys' fees, incurred after the filing of the request for trial de novo in accordance with applicable law; provided if such a judgment is not more favorable to the appealing party than the most recent offer of judgment, if any, made pursuant to section 17 of this act, the court shall not make an award of fees and costs to the appealing party.

(7) If a party is entitled to an award with respect to the same fees and costs pursuant to this section and section 17 of this act, then the party shall only receive an award of fees and costs as provided in and limited by section 17 of this act. Any award of fees and costs pursuant to subsections (5) or (6) of this section is subject to review in the event of any appeal thereof otherwise permitted by applicable law or court rule.

NEW SECTION. **Sec. 12.** CASE SCHEDULE PLAN. (1) Not less than sixty days after the later of filing or service of the complaint, the parties shall confer to create a proposed case schedule plan for submission to the court that includes the following deadlines:

(a) Selection of a mediator;

(b) Commencement of the mandatory mediation and submission of mediation materials required by this chapter;

(c) Selection of the arbitrator by the parties, where applicable;

(d) Joinder of additional parties in the action;

(e) Completion of each party's investigation;

(f) Disclosure of each party's proposed repair plan;

(g) Disclosure of each party's estimated costs of repair;

(h) Meeting of parties and experts to confer in accordance with section 13 of this act; and

(i) Disclosure of each party's settlement demand or response.

(2) If the parties agree upon a proposed case schedule plan, they shall move the court for the entry of the proposed case schedule plan. If the parties cannot agree, either party may move the court for entry of a case schedule plan that includes the above deadlines.

NEW SECTION. **Sec. 13.** MANDATORY MEDIATION. (1) The parties to an action subject to this act shall engage in mediation. Unless the parties agree otherwise, the mediation required by this section shall commence within seven months of the later of the filing or service of the complaint. If the parties cannot agree upon a mediator, the court shall appoint a mediator.

(2) Prior to the mediation required by this section, the parties and their experts shall meet and confer in good faith to attempt to resolve or narrow the scope of the disputed issues, including issues related to the parties' repair plans.

(3) Prior to the mandatory mediation, the parties or their attorneys shall file and serve a declaration that:

(a) A decision maker with authority to settle will be available for the duration of the mandatory mediation; and

(b) The decision maker has been provided with and has reviewed the mediation materials provided by the party to which the decision maker is affiliated as well as the materials submitted by the opposing parties.

(4) Completion of the mediation required by this section occurs upon written notice of termination by any party. The provisions of section 17 of this act shall not apply to any later mediation conducted following such notice.

NEW SECTION. **Sec. 14.** NEUTRAL EXPERT. (1) If, after meeting and conferring as required by section 13(2) of this act, disputed issues remain, a party may file a motion with the court, or arbitrator if an arbitrator has been appointed, requesting the appointment of a neutral expert to address any or all of the disputed issues. Unless otherwise agreed to by the parties or upon a showing of exceptional circumstances, including a material adverse change in a party's litigation risks due to a change in allegations, claims, or defenses by an adverse party following the appointment of the neutral expert, any such motion shall be filed no later than sixty days after the first day of the meeting required by section 13(2) of this act. Upon such a request, the court or arbitrator shall decide whether or not to appoint a neutral expert or experts. A party may only request more than one neutral expert if the particular expertise of the additional neutral expert or experts is necessary to address disputed issues.

(2) The neutral expert shall be a licensed architect or engineer, or any other person, with substantial experience relevant to the issue or issues in dispute. The neutral expert shall not have been employed as an expert by a party to the present action within three years before the commencement of the present action, unless the parties agree otherwise.

(3) All parties shall be given an opportunity to recommend neutral experts to the court or arbitrator and shall have input regarding the appointment of a neutral expert.

(4) Unless the parties agree otherwise on the following matters, the court, or arbitrator if then appointed, shall determine:

(a) Who shall serve as the neutral expert;

(b) Subject to the requirements of this section, the scope of the neutral expert's duties;

(c) The number and timing of inspections of the property;

(d) Coordination of inspection activities with the parties' experts;

(e) The neutral expert's access to the work product of the parties' experts;

(f) The product to be prepared by the neutral expert;

(g) Whether the neutral expert may participate personally in the mediation required by section 13 of this act; and

(h) Other matters relevant to the neutral expert's assignment.

(5) Unless the parties agree otherwise, the neutral expert shall not make findings or render opinions regarding the amount of damages to be awarded, or the cost of repairs, or absent exceptional circumstances any matters that are not in dispute as determined in the meeting described in section 13(2) of this act or otherwise.

(6) A party may, by motion to the court, or to the arbitrator if then appointed, object to the individual appointed to serve as the neutral expert and to determinations regarding the neutral expert's assignment.

(7) The neutral expert shall have no liability to the parties for the performance of his or her duties as the neutral expert.

(8) Except as otherwise agreed by the parties, the parties have a right to review and comment on the neutral expert's report before it is made final.

(9) A neutral expert's report or testimony is not entitled to any evidentiary presumption in any arbitration or court proceeding. Nothing in this act restricts the admissibility of such a report or testimony, provided it is within the scope of the neutral expert's assigned duties, and questions of the admissibility of such a report or testimony shall be determined under the rules of evidence.

(10) The court, or arbitrator if then appointed, shall determine the significance of the neutral expert's report and testimony with respect to parties joined after the neutral expert's appointment and shall determine whether additional neutral experts should be appointed or other measures should be taken to protect such joined parties from undue prejudice.

NEW SECTION. **Sec. 15.** PAYMENT OF ARBITRATORS, MEDIATORS, AND NEUTRAL EXPERTS. (1) Where the building permit that authorized commencement of construction of a building was issued on or after the effective date of this act:

(a)(i) If the action is referred to arbitration under section 11 of this act, the party who demands arbitration shall advance the fees of any arbitrator and any mediator appointed under section 13 of this act; and

(ii) A party who requests the appointment of a neutral expert pursuant to section 14 of this act shall advance any appointed neutral expert's fees incurred up to the issuance of a final report.

(b) If the action has not been referred to arbitration, the court shall determine liability for the fees of any mediator appointed under section 13 of this act, unless the parties agree otherwise.

(c) Ultimate liability for any fees or costs advanced pursuant to this subsection (1) is subject to the fee- and cost-shifting provisions of section 17 of this act.

(2) Where the building permit that authorized commencement of construction of a building was issued before the effective date of this act:

(a)(i) If the action is referred to arbitration under section 11 of this act, the party who demands arbitration is liable for and shall pay the fees of any appointed arbitrator and any mediator appointed under section 13 of this act; and

(ii) A party who requests the appointment of a neutral expert pursuant to section 14 of this act is liable for and shall pay any appointed neutral expert's fees incurred up to the issuance of a final report.

(b) If the action has not been referred to arbitration, the court shall determine liability for the fees of any mediator appointed under section 13 of this act, unless the parties agree otherwise.

(c) Fees and costs paid under this subsection (2) are not subject to the fee- and cost-shifting provisions of section 17 of this act.

NEW SECTION. **Sec. 16.** SUBCONTRACTORS. Upon the demand of a party to an arbitration demanded under section 11 of this act, any subcontractor or supplier against whom such party has a legal claim and whose work or performance on the building in question becomes an issue in the arbitration may be joined in and become a party to the arbitration. However, joinder of such parties shall not be allowed if such joinder would require the arbitration hearing date to be continued beyond the date established pursuant to section 11 of this act, unless the existing parties to the arbitration agree otherwise. Nothing in sections 2 through 10 of this act shall be construed to release, modify, or otherwise alleviate the liabilities or responsibilities that any party may have towards any other party, contractor, or subcontractor.

NEW SECTION. **Sec. 17.** OFFERS OF JUDGMENT--COSTS AND FEES. (1) On or before the sixtieth day following completion of the mediation pursuant to section 13(4) of this act, the declarant, association, or party unit owner may serve on an adverse party an offer to allow judgment to be entered. The offer of judgment shall specify the amount of damages, not including costs or fees, that the declarant, association, or party unit owner is offering to pay or receive. A declarant's offer shall also include its commitment to pay costs and fees that may be awarded as provided in this section. The declarant, association, or party unit owner may make more than one offer of judgment so long as each offer is timely made. Each subsequent offer supersedes and replaces the previous offer. Any offer not accepted within twenty-one days of the service of that offer is deemed rejected and withdrawn and evidence thereof is not admissible and may not be provided to the court or arbitrator except in a proceeding to determine costs and fees or as part of the motion identified in subsection (2) of this section.

(2) A declarant's offer must include a demonstration of ability to pay damages, costs, and fees, including reasonable attorneys' fees, within thirty days of acceptance of the offer of judgment. The demonstration of ability to pay shall include a sworn statement signed by the declarant, the attorney representing the declarant, and, if any insurance proceeds will be used to fund any portion of the offer, an authorized representative of the insurance company. If the association or party unit owner disputes the adequacy of the declarant's demonstration of ability to pay, the association or party unit owner may file a motion with the court requesting a ruling on the adequacy of the declarant's demonstration of ability to pay. Upon filing of such motion, the deadline for a response to the offer shall be tolled from the date the motion is filed until the court has ruled.

(3) An association or party unit owner that accepts the declarant's offer of judgment shall be deemed the prevailing party and, in addition to recovery of the amount of the offer, shall be entitled to a costs and fees award, including reasonable attorneys' fees, in an amount to be determined by the court in accordance with applicable law.

(4) If the amount of the final nonappealable or nonappealed judgment, exclusive of costs or fees, is not more favorable to the offeree than the offer of judgment, then the offeror is deemed the prevailing party for purposes of this section only and is entitled to an

award of costs and fees, including reasonable attorneys' fees, incurred after the date the last offer of judgment was rejected and through the date of entry of a final nonappealable or nonappealed judgment, in an amount to be determined by the court in accordance with applicable law. The nonprevailing party shall not be entitled to receive any award of costs and fees.

(5) If the final nonappealable or nonappealed judgment on damages, not including costs or fees, is more favorable to the offeree than the last offer of judgment, then the court shall determine which party is the prevailing party and shall determine the amount of the costs and fees award, including reasonable attorneys' fees, in accordance with applicable law.

(6) Notwithstanding any other provision in this section, with respect to claims brought by an association or unit owner, the liability for declarant's costs and fees, including reasonable attorneys' fees, shall:

(a) With respect to claims brought by an association, not exceed five percent of the assessed value of the condominium as a whole, which is determined by the aggregate tax-assessed value of all units at the time of the award; and

(b) With respect to claims brought by a party unit owner, not exceed five percent of the assessed value of the unit at the time of the award.

Sec. 18. RCW 64.34.415 and 1992 c 220 s 22 are each amended to read as follows:

(1) The public offering statement of a conversion condominium shall contain, in addition to the information required by RCW 64.34.410:

(a) Either a copy of a report prepared by an independent, licensed architect or engineer, or a statement by the declarant based on such report, which report or statement describes, to the extent reasonably ascertainable, the present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the condominium;

(b) A copy of the inspection and repair report prepared by an independent, licensed architect, engineer, or qualified building inspector in accordance with the requirements of section 10 of this act;

(c) A statement by the declarant of the expected useful life of each item reported on in (a) of this subsection or a statement that no representations are made in that regard; and

(((~~(c)~~))) (d) A list of any outstanding notices of uncured violations of building code or other municipal regulations, together with the estimated cost of curing those violations. Unless the purchaser waives in writing the curing of specific violations, the extent to which the declarant will cure such violations prior to the closing of the sale of a unit in the condominium shall be included.

(2) This section applies only to condominiums containing units that may be occupied for residential use.

Sec. 19. RCW 64.34.410 and 2004 c 201 s 11 are each amended to read as follows:

(1) A public offering statement shall contain the following information:

(a) The name and address of the condominium;

(b) The name and address of the declarant;

(c) The name and address of the management company, if any;

(d) The relationship of the management company to the declarant, if any;

(e) A list of up to the five most recent condominium projects completed by the declarant or an affiliate of the declarant within the past five years, including the names of the condominiums, their addresses, and the number of existing units in each. For the purpose of this section, a condominium is "completed" when any one unit therein has been rented or sold;

(f) The nature of the interest being offered for sale;

(g) A brief description of the permitted uses and use restrictions pertaining to the units and the common elements;

(h) A brief description of the restrictions, if any, on the renting or leasing of units by the declarant or other unit owners, together with the rights, if any, of the declarant to rent or lease at least a majority of units;

(i) The number of existing units in the condominium and the maximum number of units that may be added to the condominium;

(j) A list of the principal common amenities in the condominium which materially affect the value of the condominium and those that will or may be added to the condominium;

(k) A list of the limited common elements assigned to the units being offered for sale;

(l) The identification of any real property not in the condominium, the owner of which has access to any of the common elements, and a description of the terms of such access;

(m) The identification of any real property not in the condominium to which unit owners have access and a description of the terms of such access;

(n) The status of construction of the units and common elements, including estimated dates of completion if not completed;

(o) The estimated current common expense liability for the units being offered;

(p) An estimate of any payment with respect to the common expense liability for the units being offered which will be due at closing;

(q) The estimated current amount and purpose of any fees not included in the common expenses and charged by the declarant or the association for the use of any of the common elements;

(r) Any assessments which have been agreed to or are known to the declarant and which, if not paid, may constitute a lien against any units or common elements in favor of any governmental agency;

(s) The identification of any parts of the condominium, other than the units, which any individual owner will have the responsibility for maintaining;

(t) If the condominium involves a conversion condominium, the information required by RCW 64.34.415;

(u) Whether timesharing is restricted or prohibited, and if restricted, a general description of such restrictions;

(v) A list of all development rights reserved to the declarant and all special declarant rights reserved to the declarant, together with the dates such rights must terminate, and a copy of or reference by recording number to any recorded transfer of a special declarant right;

(w) A description of any material differences in terms of furnishings, fixtures, finishes, and equipment between any model unit available to the purchaser at the time the agreement for sale is executed and the unit being offered;

(x) Any liens on real property to be conveyed to the association required to be disclosed pursuant to RCW 64.34.435(2)(b);

(y) A list of any physical hazards known to the declarant which particularly affect the condominium or the immediate vicinity in which the condominium is located and which are not readily ascertainable by the purchaser;

(z) A brief description of any construction warranties to be provided to the purchaser;

(aa) Any building code violation citations received by the declarant in connection with the condominium which have not been corrected;

(bb) A statement of any unsatisfied judgments or pending suits against the association, a statement of the status of any pending suits material to the condominium of which the declarant has actual knowledge, and a statement of any litigation brought by an owners' association, unit owner, or governmental entity in which the declarant or any affiliate of the declarant has been a defendant, arising out of the construction, sale, or administration of any condominium within the previous five years, together with the results thereof, if known;

(cc) Any rights of first refusal to lease or purchase any unit or any of the common elements;

(dd) The extent to which the insurance provided by the association covers furnishings, fixtures, and equipment located in the unit;

(ee) A notice which describes a purchaser's right to cancel the purchase agreement or extend the closing under RCW 64.34.420, including applicable time frames and procedures;

(ff) Any reports or statements required by RCW 64.34.415 or 64.34.440(6)(a). RCW 64.34.415 shall apply to the public offering statement of a condominium in connection with which a final certificate of occupancy was issued more than sixty calendar months prior to the preparation of the public offering statement whether or not the condominium is a conversion condominium as defined in RCW 64.34.020(10);

(gg) A list of the documents which the prospective purchaser is entitled to receive from the declarant before the rescission period commences;

(hh) A notice which states: A purchaser may not rely on any representation or express warranty unless it is contained in the public offering statement or made in writing signed by the declarant or by any person identified in the public offering statement as the declarant's agent;

(ii) A notice which states: This public offering statement is only a summary of some of the significant aspects of purchasing a unit in this condominium and the condominium documents are complex, contain other important information, and create binding legal obligations. You should consider seeking the assistance of legal counsel;

(jj) Any other information and cross-references which the declarant believes will be helpful in describing the condominium to the recipients of the public offering statement, all of which may be included or not included at the option of the declarant;

(kk) A notice that addresses compliance or noncompliance with the housing for older persons act of 1995, P.L. 104-76, as enacted on December 28, 1995;

(ll) A notice that is substantially in the form required by RCW 64.50.050; ((~~and~~))

(mm) A statement, as required by RCW 64.35.210, as to whether the units or common elements of the condominium are covered by a qualified warranty, and a history of claims under any such warranty; and

(nn) A statement that the building enclosure has been designed and inspected as required by sections 2 through 10 of this act, and, if required, repaired in accordance with the requirements of section 10 of this act.

(2) The public offering statement shall include copies of each of the following documents: The declaration, the survey map and plans, the articles of incorporation of the association, bylaws of the association, rules and regulations, if any, current or proposed budget for the association, ((~~and~~)) the balance sheet of the association current within ninety days if assessments have been collected for ninety days or more, and the inspection and repair report or reports prepared in accordance with the requirements of section 10 of this act.

If any of the foregoing documents listed in this subsection are not available because they have not been executed, adopted, or recorded, drafts of such documents shall be provided with the public offering statement, and, before closing the sale of a unit, the purchaser shall be given copies of any material changes between the draft of the proposed documents and the final documents.

(3) The disclosures required by subsection (1)(g), (k), (s), (u), (v), and (cc) of this section shall also contain a reference to specific sections in the condominium documents which further explain the information disclosed.

(4) The disclosures required by subsection (1)(ee), (hh), (ii), and (ll) of this section shall be located at the top of the first page of the public offering statement and be typed or printed in ten-point bold face type size.

(5) A declarant shall promptly amend the public offering statement to reflect any material change in the information required by this section.

Sec. 20. RCW 64.34.100 and 2004 c 201 s 2 are each amended to read as follows:

(1) The remedies provided by this chapter shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed. However, consequential, special, or punitive damages may not be awarded except as specifically provided in this chapter or by other rule of law.

(2) Except as otherwise provided in sections 11 through 17 of this act or chapter 64.35 RCW, any right or obligation declared by this chapter is enforceable by judicial proceeding. The arbitration proceedings provided for in sections 11 through 17 of this act shall be considered judicial proceedings for the purposes of this chapter.

NEW SECTION. **Sec. 21.** A new section is added to Article 1 of chapter 64.34 RCW to read as follows:

Chapter 64.-- RCW (sections 1 through 17 of this act) includes requirements for: The inspection of the building enclosures of multiunit residential buildings, as defined in section 2 of this act, which includes condominiums and conversion condominiums; for provision of inspection and repair reports; and for the resolution of implied or express warranty disputes under chapter 64.34 RCW.

NEW SECTION. **Sec. 22.** CAPTIONS. Captions used in this act are not any part of the law.

NEW SECTION. **Sec. 23.** Sections 1 through 17 of this act constitute a new chapter in Title 64 RCW.

NEW SECTION. **Sec. 24.** EFFECTIVE DATE. This act takes effect August 1, 2005."

On page 1, line 2 of the title, after "buildings;" strike the remainder of the title and insert "amending RCW 64.34.415, 64.34.410, and 64.34.100; adding a new section to chapter 64.34 RCW; adding a new chapter to Title 64 RCW; creating a new section; and providing an effective date."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to ENGROSSED HOUSE BILL NO. 1848 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representatives Springer and Tom spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed House Bill No. 1848 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 1848, as amended by the Senate and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

ENGROSSED HOUSE BILL NO. 1848, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 13, 2005

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1934, with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9A.36.031 and 1999 c 328 s 1 are each amended to read as follows:

(1) A person is guilty of assault in the third degree if he or she, under circumstances not amounting to assault in the first or second degree:

(a) With intent to prevent or resist the execution of any lawful process or mandate of any court officer or the lawful apprehension or detention of himself or another person, assaults another; or

(b) Assaults a person employed as a transit operator or driver, the immediate supervisor of a transit operator or driver, a mechanic, or a security officer, by a public or private transit company or a contracted transit service provider, while that person is performing his or her official duties at the time of the assault; or

(c) Assaults a school bus driver, the immediate supervisor of a driver, a mechanic, or a security officer, employed by a school district transportation service or a private company under contract for transportation services with a school district, while the person is performing his or her official duties at the time of the assault; or

(d) With criminal negligence, causes bodily harm to another person by means of a weapon or other instrument or thing likely to produce bodily harm; or

(e) Assaults a fire fighter or other employee of a fire department, county fire marshal's office, county fire prevention bureau, or fire protection district who was performing his or her official duties at the time of the assault; or

(f) With criminal negligence, causes bodily harm accompanied by substantial pain that extends for a period sufficient to cause considerable suffering; or

(g) Assaults a law enforcement officer or other employee of a law enforcement agency who was performing his or her official duties at the time of the assault; or

(h) Assaults a peace officer with a projectile stun gun; or

(i) Assaults a nurse, physician, or health care provider who was performing his or her nursing or health care duties at the time of the assault. For purposes of this subsection: "Nurse" means a person licensed under chapter 18.79 RCW; "physician" means a person licensed under chapter 18.57 or 18.71 RCW; and "health care provider" means a person certified under chapter 18.71 or 18.73 RCW who performs emergency medical services or a person regulated under Title 18 RCW and employed by, or contracting with, a hospital licensed under chapter 70.41 RCW.

(2) Assault in the third degree is a class C felony.

Sec. 2. RCW 9.94A.515 and 2004 c 176 s 2 and 2004 c 94 s 3 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055)
	Malicious explosion 1 (RCW 70.74.280(1))
	Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050)
	Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2))

Official

Malicious placement of an explosive 1 (RCW 70.74.270(1))

XII Assault 1 (RCW 9A.36.011)

Assault of a Child 1 (RCW 9A.36.120)

Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))

Rape 1 (RCW 9A.44.040)

Rape of a Child 1 (RCW 9A.44.073)

Trafficking 2 (RCW 9A.40.100(2))

XI Manslaughter 1 (RCW 9A.32.060)

Rape 2 (RCW 9A.44.050)

Rape of a Child 2 (RCW 9A.44.076)

X Child Molestation 1 (RCW 9A.44.083)

Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))

Kidnapping 1 (RCW 9A.40.020)

Leading Organized Crime (RCW 9A.82.060(1)(a))

Malicious explosion 3 (RCW 70.74.280(3))

Sexually Violent Predator Escape (RCW 9A.76.115)

IX Assault of a Child 2 (RCW 9A.36.130)

Explosive devices prohibited (RCW 70.74.180)

Hit and Run--Death (RCW 46.52.020(4)(a))

Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)

Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))

Malicious placement of an explosive 2 (RCW 70.74.270(2))

Robbery 1 (RCW 9A.56.200)

Sexual Exploitation (RCW 9.68A.040)

Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)

VIII Arson 1 (RCW 9A.48.020)

Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)

Manslaughter 2 (RCW 9A.32.070)

Promoting Prostitution 1 (RCW 9A.88.070)

Theft of Ammonia (RCW 69.55.010)

Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)

VII Burglary 1 (RCW 9A.52.020)

Child Molestation 2 (RCW 9A.44.086)

Civil Disorder Training (RCW 9A.48.120)

Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)

Drive-by Shooting (RCW 9A.36.045)

Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)

Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))

Introducing Contraband 1 (RCW 9A.76.140)

Malicious placement of an explosive 3 (RCW 70.74.270(3))

Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)

Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))

Use of a Machine Gun in Commission of a Felony (RCW 9.41.225)

Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)

VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))

Bribery (RCW 9A.68.010)

Incest 1 (RCW 9A.64.020(1))

Intimidating a Judge (RCW 9A.72.160)

Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)

Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))

Rape of a Child 3 (RCW 9A.44.079)

Theft of a Firearm (RCW 9A.56.300)

Unlawful Storage of Ammonia (RCW 69.55.020)

V Abandonment of dependent person 1 (RCW 9A.42.060)

draft

Advancing money or property for extortionate extension of credit (RCW 9A.82.030)

Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))

Child Molestation 3 (RCW 9A.44.089)

Criminal Mistreatment 1 (RCW 9A.42.020)

Custodial Sexual Misconduct 1 (RCW 9A.44.160)

Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145)

Extortion 1 (RCW 9A.56.120)

Extortionate Extension of Credit (RCW 9A.82.020)

Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)

Incest 2 (RCW 9A.64.020(2))

Kidnapping 2 (RCW 9A.40.030)

Perjury 1 (RCW 9A.72.020)

Persistent prison misbehavior (RCW 9.94.070)

Possession of a Stolen Firearm (RCW 9A.56.310)

Rape 3 (RCW 9A.44.060)

Rendering Criminal Assistance 1 (RCW 9A.76.070)

Sexual Misconduct with a Minor 1 (RCW 9A.44.093)

Sexually Violating Human Remains (RCW 9A.44.105)

Stalking (RCW 9A.46.110)

Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)

IV Arson 2 (RCW 9A.48.030)

Assault 2 (RCW 9A.36.021)

Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))

Assault by Watercraft (RCW 79A.60.060)

Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)

Cheating 1 (RCW 9.46.1961)

Commercial Bribery (RCW 9A.68.060)

Counterfeiting (RCW 9.16.035(4))

Endangerment with a Controlled Substance (RCW 9A.42.100)

Escape 1 (RCW 9A.76.110)

Hit and Run--Injury (RCW 46.52.020(4)(b))

Hit and Run with Vessel--Injury Accident (RCW 79A.60.200(3))

Identity Theft 1 (RCW 9.35.020(2))

Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)

Influencing Outcome of Sporting Event (RCW 9A.82.070)

Malicious Harassment (RCW 9A.36.080)

Residential Burglary (RCW 9A.52.025)

Robbery 2 (RCW 9A.56.210)

Theft of Livestock 1 (RCW 9A.56.080)

Threats to Bomb (RCW 9.61.160)

Trafficking in Stolen Property 1 (RCW 9A.82.050)

Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))

Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))

Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))

Unlawful transaction of insurance business (RCW 48.15.023(3))

Unlicensed practice as an insurance professional (RCW 48.17.063(3))

Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))

Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)

Willful Failure to Return from Furlough (RCW 72.66.060)

III Abandonment of dependent person 2 (RCW 9A.42.070)

draft

Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))

Assault of a Child 3 (RCW 9A.36.140)

Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))

Burglary 2 (RCW 9A.52.030)

Communication with a Minor for Immoral Purposes (RCW 9.68A.090)

Criminal Gang Intimidation (RCW 9A.46.120)

Criminal Mistreatment 2 (RCW 9A.42.030)

Custodial Assault (RCW 9A.36.100)

Cyberstalking (subsequent conviction or threat of death) (RCW 9.61.260(3))

Escape 2 (RCW 9A.76.120)

Extortion 2 (RCW 9A.56.130)

Harassment (RCW 9A.46.020)

Intimidating a Public Servant (RCW 9A.76.180)

Introducing Contraband 2 (RCW 9A.76.150)

Malicious Injury to Railroad Property (RCW 81.60.070)

Patronizing a Juvenile Prostitute (RCW 9.68A.100)

Perjury 2 (RCW 9A.72.030)

Possession of Incendiary Device (RCW 9.40.120)

Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW 9.41.190)

Promoting Prostitution 2 (RCW 9A.88.080)

Securities Act violation (RCW 21.20.400)

Tampering with a Witness (RCW 9A.72.120)

Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))

Theft of Livestock 2 (RCW 9A.56.083)

Trafficking in Stolen Property 2 (RCW 9A.82.055)

Unlawful Imprisonment (RCW 9A.40.040)

Unlawful possession of firearm in the second degree (RCW 9.41.040(2))

Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)

Willful Failure to Return from Work Release (RCW 72.65.070)

II Computer Trespass 1 (RCW 9A.52.110)

Counterfeiting (RCW 9.16.035(3))

Escape from Community Custody (RCW 72.09.310)

Health Care False Claims (RCW 48.80.030)

Identity Theft 2 (RCW 9.35.020(3))

Improperly Obtaining Financial Information (RCW 9.35.010)

Malicious Mischief 1 (RCW 9A.48.070)

Possession of Stolen Property 1 (RCW 9A.56.150)

Theft 1 (RCW 9A.56.030)

Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(5)(a))

Trafficking in Insurance Claims (RCW 48.30A.015)

Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))

Unlawful Practice of Law (RCW 2.48.180)

Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))

I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)

False Verification for Welfare (RCW 74.08.055)

Forgery (RCW 9A.60.020)

Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)

Malicious Mischief 2 (RCW 9A.48.080)

Mineral Trespass (RCW 78.44.330)

Possession of Stolen Property 2 (RCW 9A.56.160)

Reckless Burning 1 (RCW 9A.48.040)

draft

Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)

Theft 2 (RCW 9A.56.040)

Theft of Rental, Leased, or Lease-purchased Property (valued at two hundred fifty dollars or more but less than one thousand five hundred dollars) (RCW 9A.56.096(5)(b))

Transaction of insurance business beyond the scope of licensure (RCW 48.17.063(4))

Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)

Unlawful Possession of Fictitious Identification (RCW 9A.56.320)

Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)

Unlawful Possession of Payment Instruments (RCW 9A.56.320)

Unlawful Possession of a Personal Identification Device (RCW 9A.56.320)

Unlawful Production of Payment Instruments (RCW 9A.56.320)

Unlawful Trafficking in Food Stamps (RCW 9.91.142)

Unlawful Use of Food Stamps (RCW 9.91.144)

Vehicle Prowl 1 (RCW 9A.52.095)

Sec. 3. RCW 9A.04.110 and 1988 c 158 s 1 are each amended to read as follows:

In this title unless a different meaning plainly is required:

(1) "Acted" includes, where relevant, omitted to act;

(2) "Actor" includes, where relevant, a person failing to act;

(3) "Benefit" is any gain or advantage to the beneficiary, including any gain or advantage to a third person pursuant to the desire or consent of the beneficiary;

(4)(a) "Bodily injury," "physical injury," or "bodily harm" means physical pain or injury, illness, or an impairment of physical condition;

(b) "Substantial bodily harm" means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily part or organ, or which causes a fracture of any bodily part;

(c) "Great bodily harm" means bodily injury which creates a probability of death, or which causes significant serious permanent disfigurement, or which causes a significant permanent loss or impairment of the function of any bodily part or organ;

(5) "Building", in addition to its ordinary meaning, includes any dwelling, fenced area, vehicle, railway car, cargo container, or any other structure used for lodging of persons or for carrying on business therein, or for the use, sale or deposit of goods; each unit of a building consisting of two or more units separately secured or occupied is a separate building;

(6) "Deadly weapon" means any explosive or loaded or unloaded firearm, and shall include any other weapon, device, instrument, article, or substance, including a "vehicle" as defined in this section, which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or substantial bodily harm;

(7) "Dwelling" means any building or structure, though movable or temporary, or a portion thereof, which is used or ordinarily used by a person for lodging;

(8) "Government" includes any branch, subdivision, or agency of the government of this state and any county, city, district, or other local governmental unit;

(9) "Governmental function" includes any activity which a public servant is legally authorized or permitted to undertake on behalf of a government;

(10) "Indicted" and "indictment" include "informed against" and "information", and "informed against" and "information" include "indicted" and "indictment";

(11) "Judge" includes every judicial officer authorized alone or with others, to hold or preside over a court;

(12) "Malice" and "maliciously" shall import an evil intent, wish, or design to vex, annoy, or injure another person. Malice may be inferred from an act done in wilful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a wilful disregard of social duty;

(13) "Officer" and "public officer" means a person holding office under a city, county, or state government, or the federal government who performs a public function and in so doing is vested with the exercise of some sovereign power of government, and includes all assistants, deputies, clerks, and employees of any public officer and all persons lawfully exercising or assuming to exercise any of the powers or functions of a public officer;

(14) "Omission" means a failure to act;

(15) "Peace officer" means a duly appointed city, county, or state law enforcement officer;

(16) "Pecuniary benefit" means any gain or advantage in the form of money, property, commercial interest, or anything else the primary significance of which is economic gain;

(17) "Person", "he", and "actor" include any natural person and, where relevant, a corporation, joint stock association, or an unincorporated association;

(18) "Place of work" includes but is not limited to all the lands and other real property of a farm or ranch in the case of an actor who owns, operates, or is employed to work on such a farm or ranch;

(19) "Prison" means any place designated by law for the keeping of persons held in custody under process of law, or under lawful arrest, including but not limited to any state correctional institution or any county or city jail;

(20) "Prisoner" includes any person held in custody under process of law, or under lawful arrest;

(21) <u>"Projectile stun gun" means an electronic device that projects wired probes attached to the device that emit an electrical charge and that is designed and primarily employed to incapacitate a person or animal;</u>

<u>(22)</u> "Property" means anything of value, whether tangible or intangible, real or personal;

((~~(22)~~)) <u>(23)</u> "Public servant" means any person other than a witness who presently occupies the position of or has been elected, appointed, or designated to become any officer or employee of government, including a legislator, judge, judicial officer, juror, and any person participating as an advisor, consultant, or otherwise in performing a governmental function;

(((~~(23)~~))) (24) "Signature" includes any memorandum, mark, or sign made with intent to authenticate any instrument or writing, or the subscription of any person thereto;

(((~~(24)~~))) (25) "Statute" means the Constitution or an act of the legislature or initiative or referendum of this state;

(((~~(25)~~))) (26) "Threat" means to communicate, directly or indirectly the intent:

(a) To cause bodily injury in the future to the person threatened or to any other person; or

(b) To cause physical damage to the property of a person other than the actor; or

(c) To subject the person threatened or any other person to physical confinement or restraint; or

(d) To accuse any person of a crime or cause criminal charges to be instituted against any person; or

(e) To expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt, or ridicule; or

(f) To reveal any information sought to be concealed by the person threatened; or

(g) To testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

(h) To take wrongful action as an official against anyone or anything, or wrongfully withhold official action, or cause such action or withholding; or

(i) To bring about or continue a strike, boycott, or other similar collective action to obtain property which is not demanded or received for the benefit of the group which the actor purports to represent; or

(j) To do any other act which is intended to harm substantially the person threatened or another with respect to his health, safety, business, financial condition, or personal relationships;

(((~~(26)~~))) (27) "Vehicle" means a "motor vehicle" as defined in the vehicle and traffic laws, any aircraft, or any vessel equipped for propulsion by mechanical means or by sail;

(((~~(27)~~))) (28) Words in the present tense shall include the future tense; and in the masculine shall include the feminine and neuter genders; and in the singular shall include the plural; and in the plural shall include the singular.

NEW SECTION. **Sec. 4.** (1) The projectile stun gun study committee is established to review the sale and use of projectile stun guns within Washington state. The committee shall be composed of:

(a) Two senators, one from each caucus in the senate;

(b) Two representatives, one from each caucus in the house of representatives;

(c) One police chief appointed by the Washington association of sheriffs and police chiefs;

(d) One elected sheriff appointed by the Washington association of sheriffs and police chiefs;

(e) One representative appointed by the association of Washington cities;

(f) One representative appointed by the Washington state association of counties; and

(g) One representative appointed by the department of health.

(2) The committee shall evaluate public safety issues created by projectile stun guns and make recommendations regarding whether they should be regulated and, if so, how. Specifically, the committee shall review:

(a) Public safety issues related to projectile stun guns when used by the general public;

(b) Ownership limitations, such as age and criminal record restrictions;

(c) The practicality of requiring criminal background checks prior to allowing the purchase of a projectile stun gun and who would perform such criminal background checks;

(d) Manufacturing requirements, such as voltage limits and whether to require that projectile stun guns disperse traceable coded materials;

(e) What use and possession limitations should be placed on projectile stun guns;

(f) Whether mandatory training should be required to purchase a projectile stun gun;

(g) What penalties shall be assessed to individuals that unlawfully sell, possess, or use projectile stun guns;

(h) The feelings of the general public about the use of projectile stun guns as an alternative to traditional firearms as means of self-protection; and

(i) Any other issue the committee finds relevant to the regulation of projectile stun guns in Washington.

(3) Staff support shall be provided by senate committee services and the office of program research.

(4) Legislative members of the study committee shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(5) A committee report, containing findings and proposed legislation, if any, shall be delivered to the full legislature, not later than December 31, 2005."

On page 1, line 2 of the title, after "gun;" strike the remainder of the title and insert "amending RCW 9A.36.031 and 9A.04.110; reenacting and amending RCW 9.94A.515; creating a new section; and prescribing penalties."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1934 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representatives O'Brien and Pearson spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 1934 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1934, as amended by the Senate and the bill passed the House by the following vote: Yeas - 97, Nays - 1, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 97.

Voting nay: Representative Dunn - 1.

SUBSTITUTE HOUSE BILL NO. 1934, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 12, 2005

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2015, with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9.94A.660 and 2002 c 290 s 20 and 2002 c 175 s 10 are each reenacted and amended to read as follows:

(1) An offender is eligible for the special drug offender sentencing alternative if:

(a) The offender is convicted of a felony that is not a violent offense or sex offense and the violation does not involve a sentence enhancement under RCW 9.94A.533 (3) or (4);

(b) The offender has no current or prior convictions for a sex offense at any time or violent offense within ten years before conviction of the current offense, in this state, another state, or the United States;

(c) For a violation of the Uniform Controlled Substances Act under chapter 69.50 RCW or a criminal solicitation to commit such a violation under chapter 9A.28 RCW, the offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance; ((~~and~~))

(d) The offender has not been found by the United States attorney general to be subject to a deportation detainer or order and does not become subject to a deportation order during the period of the sentence;

(e) The standard sentence range for the current offense is greater than one year; and

(f) The offender has not received a drug offender sentencing alternative more than once in the prior ten years before the current offense.

(2) A motion for a sentence under this section may be made by the court, the offender, or the state. If ((~~the standard sentence range is greater than one year and~~)) the sentencing court determines that the offender is eligible for this alternative ((~~and that~~)), the court may order an examination of the offender. The examination shall, at a minimum, address the following issues:

(a) Whether the offender suffers from drug addiction;

(b) Whether the addiction is such that there is a probability that criminal behavior will occur in the future;

(c) Whether effective treatment for the offender's addiction is available from a provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services; and

(d) Whether the offender and the community will benefit from the use of the alternative((~~, the judge may~~)).

(3) The examination report must contain:

(a) Information on the issues required to be addressed in subsection (2) of this section; and

(b) A proposed treatment plan that must, at a minimum, contain:

(i) A proposed treatment provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services;

(ii) The recommended frequency and length of treatment, including both residential chemical dependency treatment and treatment in the community;

(iii) A proposed monitoring plan, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others; and

(iv) Recommended crime-related prohibitions and affirmative conditions.

(4) After receipt of the examination report, if the court determines that a sentence under this section is appropriate, the court shall waive imposition of a sentence within the standard sentence range and impose a sentence ((~~that must include~~)) consisting of either a prison-based alternative under subsection (5) of this section or a residential chemical dependency treatment-based alternative under subsection (6) of this section. The residential chemical dependency treatment-based alternative is only available if the midpoint of the standard range is twenty-four months or less.

(5) The prison-based alternative shall include:

(a) A period of total confinement in a state facility for one-half of the midpoint of the standard sentence range. During incarceration in the state facility, offenders sentenced under this subsection shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections((~~.~~));

((~~The court shall also impose:~~

~~(a)~~)) (b) The remainder of the midpoint of the standard range as a term of community custody which must include appropriate substance abuse treatment in a program that has been approved by the division of alcohol and substance abuse of the department of social and health services. If the department finds that conditions have been willfully violated, the offender may be reclassified to serve the remaining balance of the original sentence. An offender who fails to complete the program or who is administratively terminated from the program shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court;

((~~(b)~~)) (c) Crime-related prohibitions including a condition not to use illegal controlled substances;

((~~(c)~~)) (d) A requirement to submit to urinalysis or other testing to monitor that status; and

((~~(d)~~)) (e) A term of community custody pursuant to RCW 9.94A.715 to be imposed upon failure to complete or administrative termination from the special drug offender sentencing alternative program.

(6) The residential chemical dependency treatment-based alternative shall include:

(a) A term of community custody equal to one-half of the midpoint of the standard sentence range or two years, whichever is greater, conditioned on the offender entering and remaining in residential chemical dependency treatment certified under chapter 70.96A RCW for a period set by the court between three and six months. If the court imposes a term of community custody, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the term of community custody. The court shall impose, as conditions of community custody, treatment and other conditions as proposed in the plan under subsection (3)(b) of this section. The department may impose conditions and sanctions as authorized in RCW 9.94A.715 (2), (3), (6), and (7), 9.94A.737, and 9.94A.740. The court shall schedule a progress hearing during the period of residential chemical dependency treatment, and schedule a treatment termination hearing for three months before the expiration of the term of community custody;

(b) Before the progress hearing and treatment termination hearing, the treatment provider and the department shall submit written reports to the court and parties regarding the offender's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment. At the hearing, the court may:

(i) Authorize the department to terminate the offender's community custody status on the expiration date determined under (a) of this subsection; or

(ii) Continue the hearing to a date before the expiration date of community custody, with or without modifying the conditions of community custody; or

(iii) Impose a term of total confinement equal to one-half the midpoint of the standard sentence range, followed by a term of community custody under RCW 9.94A.715;

(c) If the court imposes a term of total confinement under (b)(iii) of this subsection, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the terms of total confinement and community custody.

(7) If the court imposes a sentence under this section, the court may prohibit the offender from using alcohol or controlled substances and may require that the monitoring for controlled substances be conducted by the department or by a treatment alternatives to street crime program or a comparable court or agency-referred program. The offender may be required to pay thirty dollars per month while on community custody to offset the cost of monitoring. In addition, the court ((~~shall~~)) may impose ((~~three or more~~)) any of the following conditions:

((~~(i)~~)) (a) Devote time to a specific employment or training;

((~~(ii)~~)) (b) Remain within prescribed geographical boundaries and notify the court or the community corrections officer before any change in the offender's address or employment;

((~~(iii)~~)) (c) Report as directed to a community corrections officer;

((~~(iv)~~)) (d) Pay all court-ordered legal financial obligations;

((~~(v)~~)) (e) Perform community restitution work;

((~~(vi)~~)) (f) Stay out of areas designated by the sentencing court;

((~~(vii)~~)) (g) Such other conditions as the court may require such as affirmative conditions.

((~~(3)~~)) (8)(a) The court may bring any offender sentenced under this section back into court at any time on its own initiative to evaluate the offender's progress in treatment or to determine if any violations of the conditions of the sentence have occurred.

(b) If the offender is brought back to court, the court may modify the terms of the community custody or impose sanctions under (c) of this subsection.

(c) The court may order the offender to serve a term of total confinement within the standard range of the offender's current offense at any time during the period of community custody if the offender violates the conditions of the sentence or if the offender is failing to make satisfactory progress in treatment.

(d) An offender ordered to serve a term of total confinement under (c) of this subsection shall receive credit for any time previously served under this section.

(9) If ((~~the~~)) an offender ((~~violates any of the sentence conditions in subsection (2) of this section or~~)) sentenced to the prison-based alternative under subsection (5) of this section is found by the United States attorney general to be subject to a deportation order, a ((~~violation~~)) hearing shall be held by the department unless waived by the offender((~~:~~

~~(a) If the department finds that conditions have been willfully violated, the offender may be reclassified to serve the remaining balance of the original sentence.~~

~~(b)~~)), and, if the department finds that the offender is subject to a valid deportation order, the department may administratively terminate the offender from the program and reclassify the offender to serve the remaining balance of the original sentence.

(((~~(4) The department shall determine the rules for calculating the value of a day fine based on the offender's income and reasonable obligations which the offender has for the support of the offender and any dependents. These rules shall be developed in consultation with the administrator for the courts, the office of financial management, and the commission.~~

~~(5)~~)) (10) An offender ((~~who fails to complete the special drug offender sentencing alternative program or who is administratively terminated from the program shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court and~~)) sentenced under this section shall be subject to all rules relating to earned release time with respect to any period served in total confinement. ((~~An offender who violates any conditions of supervision as defined by the department shall be sanctioned. Sanctions may include, but are not limited to, reclassifying the offender to serve the unexpired term of his or her sentence as ordered by the sentencing court. If an offender is reclassified to serve the unexpired term of his or her sentence, the offender shall be subject to all rules relating to earned release time.~~))

(11) Costs of examinations and preparing treatment plans under subsections (2) and (3) of this section may be paid, at the option of the county, from funds provided to the county from the criminal justice treatment account under RCW 70.96A.350.

NEW SECTION. **Sec. 2.** This act applies to sentences imposed on or after the effective date of this act.

NEW SECTION. **Sec. 3.** This act takes effect October 1, 2005."

On page 1, line 1 of the title, after "treatment;" strike the remainder of the title and insert "reenacting and amending RCW 9.94A.660; creating a new section; and providing an effective date."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2015 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representative Kagi spoke in favor the passage of the bill.

Representative Pearson spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed Second Substitute House Bill No. 2015 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 2015, as amended by the Senate and the bill passed the House by the following vote: Yeas - 64, Nays - 34, Absent - 0, Excused - 0.

Voting yea: Representatives Appleton, Armstrong, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hankins, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Nixon, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Sells, Serben, Shabro, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Tom, Upthegrove, Wallace, Williams, Wood, Woods and Mr. Speaker - 64.

Voting nay: Representatives Ahern, Alexander, Anderson, Bailey, Buck, Buri, Campbell, Chandler, Clements, Condotta, Cox, Crouse, Curtis, DeBolt, Dunn, Ericksen, Haler, Holmquist, Kretz, Kristiansen, McCune, McDonald, Newhouse, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Skinner, Strow, Sump, Talcott and Walsh - 34.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2015, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 13, 2005

Mr. Speaker:

The Senate has passed ENGROSSED HOUSE BILL NO. 2185, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 51.36 RCW to read as follows:

(1) The legislature finds that there is a need to clarify the process and standards under which the department provides residence modification assistance to workers who have sustained catastrophic injury.

(2) The director shall adopt rules that take effect no later than nine months after the effective date of this section to establish guidelines and processes for residence modification pursuant to RCW 51.36.020(7).

(3) In developing rules under this section, the director shall consult with interested persons, including persons with expertise in the rehabilitation of catastrophically disabled individuals and modifications for adaptive housing.

(4) These rules must address at least the following:

(a) The process for a catastrophically injured worker to access the residence modification benefits provided by RCW 51.36.020; and

(b) How the department may address the needs and preferences of the individual worker on a case-by-case basis taking into account information provided by the injured worker. For purposes of determining the needs and requirements of the worker under RCW 51.36.020, including whether a modification is medically necessary, the department must consider all available information regarding the medical condition and physical restrictions of the injured worker, including the opinion of the worker's attending health services provider.

(5) The rules should be based upon nationally accepted guidelines and publications addressing adaptive residential housing. The department must consider the guidelines established by the United States department of veterans affairs in their publication entitled "Handbook for Design: Specially Adapted Housing," and the recommendations published in "The Accessible Housing Design File" by Barrier Free Environments, Inc.

(6) In developing rules under this section, the director shall consult with other persons with an interest in improving standards for adaptive housing.

(7) The director shall report by December 2007 to the appropriate committees of the legislature on the rules adopted under this section."

On page 1, line 1 of the title, after "workers;" strike the remainder of the title and insert "and adding a new section to chapter 51.36 RCW."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to ENGROSSED HOUSE BILL NO. 2185 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representatives Newhouse and Conway spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed House Bill No. 2185 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 2185, as amended by the Senate and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

ENGROSSED HOUSE BILL NO. 2185, as amended by the Senate having received the constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 19, 2005

Mr. Speaker:

The Senate concurred in the House amendments to the following bills and passed the bills as amended by the House:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5158,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5470,
SENATE BILL NO. 5522,
SUBSTITUTE SENATE BILL NO. 5558,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5699,
SUBSTITUTE SENATE BILL NO. 5841,
ENGROSSED SUBSTITUTE SENATE JOINT MEMORIAL NO. 8010,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

SENATE AMENDMENT TO HOUSE BILL

April 6, 2005

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 1188 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 41.56.473 and 1999 c 217 s 3 are each amended to read as follows:

(1) In addition to the entities listed in RCW 41.56.020, this chapter applies to the ((~~Washington~~)) state ((~~patrol~~)) with respect to the officers of the Washington state patrol appointed under RCW 43.43.020((~~. Subjects of bargaining include wage-related matters~~)), except that the ((~~Washington~~)) state ((~~patrol~~)) is prohibited from negotiating ((~~rates of pay or wage levels and~~)) any matters relating to retirement benefits or health care benefits or other employee insurance benefits.

(2) For the purposes of negotiating, the state shall be represented by the chief of the Washington state patrol.

(3) The chief of the Washington state patrol shall consult with the governor or the governor's designee regarding employment relations.

(4) The negotiation of provisions pertaining to wages and wage-related matters in a collective bargaining agreement between the ((~~Washington~~)) state ((~~patrol~~)) and the Washington state patrol officers is subject to the following:

(a) The chief of the Washington state patrol must periodically consult with a subcommittee of the joint committee on employment relations created in RCW 41.80.010(5) which shall consist of the four members appointed to the joint committee with leadership positions in the senate and the house of representatives, and the chairs and ranking minority members of the senate transportation committee and the house transportation committee, or their successor committees. The subcommittee must be consulted regarding the appropriations necessary to implement these provisions in a collective bargaining agreement and, on completion of negotiations, must be advised on the elements of these provisions.

(b) Provisions that are entered into before the legislature approves the funds necessary to implement the provisions must be conditioned upon the legislature's subsequent approval of the funds.

(5) The governor shall submit a request for funds necessary to implement the wage and wage-related matters in the master collective bargaining agreement or for legislation necessary to implement the agreement. Requests for funds necessary to implement the provisions of bargaining agreements may not be submitted to the legislature by the governor unless such requests:

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

(b) Have been certified by the director of financial management as being feasible financially for the state or reflects the decision of an arbitration panel reached under RCW 41.56.475.

Sec. 2. RCW 41.56.475 and 1999 c 217 s 4 are each amended to read as follows:

In addition to the classes of employees listed in RCW 41.56.030(7), the provisions of RCW 41.56.430 through 41.56.452 and 41.56.470, 41.56.480, and 41.56.490 also apply to Washington state patrol officers appointed under RCW 43.43.020 as provided in this section, subject to the following:

(1) The mediator or arbitration panel may consider only matters that are subject to bargaining under RCW 41.56.473.

(2) The decision of an arbitration panel is not binding on the legislature and, if the legislature does not approve the funds necessary to implement provisions pertaining to wages and wage-related

matters of an arbitrated collective bargaining agreement, is not binding on the state or the Washington state patrol.

(3) In making its determination, the arbitration panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and, as additional standards or guidelines to aid it in reaching a decision, shall take into consideration the following factors:

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

(b) Stipulations of the parties;

(c) Comparison of the hours and conditions of employment of personnel involved in the proceedings with the hours and conditions of employment of like personnel of like employers of similar size on the west coast of the United States;

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

(e) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of matters that are subject to bargaining under RCW 41.56.473."

In line 2 of the title, after "matters;" strike the remainder of the title and insert "and amending RCW 41.56.473 and 41.56.475."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House refused to concur in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1188 and asked the Senate to recede therefrom.

SENATE AMENDMENT TO HOUSE BILL

April 13, 2005

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1944 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that state employees have raised funds for charitable purposes over the years using various means. One of the most successful means of raising funds for charity has been the use of raffles. The legislature finds that such raffles conducted by state employees for participation by state employees are already permitted under the gambling statutes and should be permitted under the state executive ethics statutes as well.

NEW SECTION. **Sec. 2.** A new section is added to chapter 42.52 RCW to read as follows:

(1) When soliciting gifts, grants, or donations solely to support the charitable activities of state employees permitted under chapter 9.46 RCW, the state officers and state employees are presumed not to be in violation of the solicitation and receipt of gift provisions in RCW 42.52.140.

(2) For purposes of this section, activities are deemed to be charitable if the activities are devoted to the purposes authorized under RCW 9.46.0209 for charitable and nonprofit organizations listed in that section, or are in support of the activities of those charitable or nonprofit organizations."

On page 1, line 1 of the title, after "employees;" strike the remainder of the title and insert "adding a new section to chapter 42.52 RCW; and creating a new section."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House refused to concur in the Senate amendment to HOUSE BILL NO. 1944 and asked the Senate to recede therefrom.

HOUSE AMENDMENT TO SENATE BILL

April 18, 2005

Mr. Speaker:

The Senate refuses to concur in the House amendments to ENGROSSED SUBSTITUTE SENATE BILL NO. 5620 and asks the House to recede therefrom.

Thomas Hoemann, Secretary

There being no objection, the House insisted on its position in its amendments to ENGROSSED SUBSTITUTE SENATE BILL NO. 5620 and asked the Senate to concur therein.

HOUSE AMENDMENT TO SENATE BILL

April 16, 2005

Mr. Speaker:

The Senate refuses to concur in the House amendments to SECOND SUBSTITUTE SENATE BILL NO. 5370 and asks the House to recede therefrom.

Thomas Hoemann, Secretary

There being no objection, the House insisted on its position in its amendments to SECOND SUBSTITUTE SENATE BILL NO. 5370 and asked the Senate for a conference thereon.

HOUSE AMENDMENT TO SENATE BILL

April 18, 2005

Mr. Speaker:

The Senate refuses to concur in the House amendments to ENGROSSED SENATE BILL NO. 5513 and asks the House to recede therefrom.

Thomas Hoemann, Secretary

There being no objection, the House insisted on its position in its amendments to ENGROSSED SENATE BILL NO. 5513 and asked the Senate for a conference thereon.

HOUSE AMENDMENT TO SENATE BILL

April 18, 2005

Mr. Speaker:

draft

The Senate refuses to concur in the House amendments to SUBSTITUTE SENATE BILL NO. 5602 and asks the House to recede therefrom.

Thomas Hoemann, Secretary

There being no objection, the House insisted on its position in its amendments to SUBSTITUTE SENATE BILL NO. 5602 and asked the Senate for a conference thereon.

HOUSE AMENDMENT TO SENATE BILL

April 18, 2005

Mr. Speaker:

The Senate refuses to concur in the House amendments to ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5763 and asks the House for a conference thereon.

Thomas Hoemann, Secretary

There being no objection, the House granted the Senate's request for a conference on ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5763.

The Speaker (Representative Lovick presiding) appointed Representatives Cody, Green and Bailey as conferees on Engrossed Second Substitute Senate Bill No. 5763.

HOUSE AMENDMENT TO SENATE BILL

April 18, 2005

Mr. Speaker:

The Senate refuses to concur in the House amendment to ENGROSSED SENATE BILL NO. 5094 and asks the House to recede therefrom.

Thomas Hoemann, Secretary

There being no objection, the House receded from its position and passed to final passage ENGROSSED SENATE BILL NO. 5094 without the House's amendments.

Representative Pettigrew spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Senate Bill No. 5094 without the House amendments.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Senate Bill No. 5094, without House amendment and the bill passed the House by the following vote: Yeas - 63, Nays - 35, Absent - 0, Excused - 0.

Voting yea: Representatives Appleton, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Nixon, O'Brien, Ormsby, Pettigrew, Priest, Quall, Roberts, Santos, Schual-Berke, Sells, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Tom, Upthegrove, Wallace, Walsh, Williams, Wood and Mr. Speaker - 63.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Chandler, Clements, Condotta, Cox, Crouse, Curtis, DeBolt, Dunn, Ericksen, Haler, Hinkle, Holmquist, Kretz, Kristiansen, McDonald, Newhouse, Orcutt, Pearson, Roach, Rodne, Schindler, Serben, Shabro, Skinner, Strow, Sump, Talcott and Woods - 35.

ENGROSSED SENATE BILL NO. 5094, without House amendment(s) having received the constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote NAY on ENGROSSED SENATE BILL NO. 5094.

JIM MCCUNE, 2nd District

There being no objection, the House immediately reconsidered the vote on final passage by which ENGROSSED SENATE BILL NO. 5094 passed the House.

There being no objection, the House suspended the rules and returned the bill to second reading for purpose of amendments.

There being no objection, the House reverted to the sixth order of business.

SECOND READING

ENGROSSED SENATE BILL NO. 5094, By Senator Jacobsen

Changing the maximum per parcel rate for conservation district special assessments.

Representative Linville moved the adoption of the following amendment (586):

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 89.08.400 and 1992 c 70 s 1 are each amended to read as follows:

(1) Special assessments are authorized to be imposed for conservation districts as provided in this section. Activities and programs to conserve natural resources, including soil and water, are declared to be of special benefit to lands and may be used as the basis upon which special assessments are imposed.

draft

(2) Special assessments to finance the activities of a conservation district may be imposed by the county legislative authority of the county in which the conservation district is located for a period or periods each not to exceed ten years in duration.

The supervisors of a conservation district shall hold a public hearing on a proposed system of assessments prior to the first day of August in the year prior to which it is proposed that the initial special assessments be collected. At that public hearing, the supervisors shall gather information and shall alter the proposed system of assessments when appropriate, including the number of years during which it is proposed that the special assessments be imposed.

On or before the first day of August in that year, the supervisors of a conservation district shall file the proposed system of assessments, indicating the years during which it is proposed that the special assessments shall be imposed, and a proposed budget for the succeeding year with the county legislative authority of the county within which the conservation district is located. The county legislative authority shall hold a public hearing on the proposed system of assessments. After the hearing, the county legislative authority may accept, or modify and accept, the proposed system of assessments, including the number of years during which the special assessments shall be imposed, if it finds that both the public interest will be served by the imposition of the special assessments and that the special assessments to be imposed on any land will not exceed the special benefit that the land receives or will receive from the activities of the conservation district. The findings of the county legislative authority shall be final and conclusive. Special assessments may be altered during this period on individual parcels in accordance with the system of assessments if land is divided or land uses or other factors change.

Notice of the public hearings held by the supervisors and the county legislative authority shall be posted conspicuously in at least five places throughout the conservation district, and published once a week for two consecutive weeks in a newspaper in general circulation throughout the conservation district, with the date of the last publication at least five days prior to the public hearing.

(3) A system of assessments shall classify lands in the conservation district into suitable classifications according to benefits conferred or to be conferred by the activities of the conservation district, determine an annual per acre rate of assessment for each classification of land, and indicate the total amount of special assessments proposed to be obtained from each classification of lands. Lands deemed not to receive benefit from the activities of the conservation district shall be placed into a separate classification and shall not be subject to the special assessments. An annual assessment rate shall be stated as either uniform annual per acre amount, or an annual flat rate per parcel plus a uniform annual rate per acre amount, for each classification of land. The maximum annual per acre special assessment rate shall not exceed ten cents per acre. The maximum annual per parcel rate shall not exceed five dollars, except that for counties with a population of over five hundred thousand persons, the maximum annual per parcel rate shall not exceed ten dollars.

Public land, including lands owned or held by the state, shall be subject to special assessments to the same extent as privately owned lands. The procedures provided in chapter 79.44 RCW shall be followed if lands owned or held by the state are subject to the special assessments of a conservation district.

Forest lands used solely for the planting, growing, or harvesting of trees may be subject to special assessments if such lands benefit from the activities of the conservation district, but the per acre rate of special assessment on benefited forest lands shall not exceed one-tenth of the weighted average per acre assessment on all other lands within the conservation district that are subject to its special assessments. The calculation of the weighted average per acre special assessment shall be a ratio calculated as follows: (a) The numerator shall be the total amount of money estimated to be derived from the imposition of per acre special assessments on the nonforest lands in the conservation district; and (b) the denominator shall be the total number of nonforest land acres in the conservation district that receive benefit from the activities of the conservation district and which are subject to the special assessments of the conservation district. No more than ten thousand acres of such forest lands that is both owned by the same person or entity and is located in the same conservation district may be subject to the special assessments that are imposed for that conservation district in any year. Per parcel charges shall not be imposed on forest land parcels. However, in lieu of a per parcel charge, a charge of up to three dollars per forest landowner may be imposed on each owner of forest lands whose forest lands are subject to a per acre rate of assessment.

(4) A conservation district shall prepare an assessment roll that implements the system of assessments approved by the county legislative authority. The special assessments from the assessment roll shall be spread by the county assessor as a separate item on the tax rolls and shall be collected and accounted for with property taxes by the county treasurer. The amount of a special assessment shall constitute a lien against the land that shall be subject to the same conditions as a tax lien, collected by the treasurer in the same manner as delinquent real property taxes, and subject to the same interest rate and penalty as for delinquent property taxes. The county treasurer shall deduct an amount from the collected special assessments, as established by the county legislative authority, to cover the costs incurred by the county assessor and county treasurer in spreading and collecting the special assessments, but not to exceed the actual costs of such work.

(5) The special assessments for a conservation district shall not be spread on the tax rolls and shall not be collected with property tax collections in the following year if, after the system of assessments has been approved by the county legislative authority but prior to the fifteenth day of December in that year, a petition has been filed with the county legislative authority objecting to the imposition of such special assessments, which petition has been signed by at least twenty percent of the owners of land that would be subject to the special assessments to be imposed for a conservation district."

Correct the title.

Representative Linville spoke in favor of adoption of the amendment.

Representative Kristiansen spoke against the adoption of the amendment.

The amendment was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House was placed on final passage.

Representative Linville spoke in favor of passage of the bill.

Representative Kristiansen spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Senate Bill No. 5094, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Senate Bill No. 5094, as amended by the House and the bill passed the House by the following vote: Yeas - 57, Nays - 41, Absent - 0, Excused - 0.

Voting yea: Representatives Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morris, Murray, Nixon, O'Brien, Ormsby, Pettigrew, Priest, Quall, Roberts, Santos, Schual-Berke, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Tom, Upthegrove, Wallace, Walsh, Williams, Wood and Mr. Speaker - 57.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Campbell, Chandler, Clements, Condotta, Cox, Crouse, Curtis, DeBolt, Dunn, Ericksen, Haler, Hankins, Hinkle, Holmquist, Kilmer, Kretz, Kristiansen, McCune, McDonald, Morrell, Newhouse, Orcutt, Pearson, Roach, Rodne, Schindler, Sells, Serben, Shabro, Skinner, Strow, Sump, Talcott and Woods - 41.

ENGROSSED SENATE BILL NO. 5094, as amended by the House, having received the necessary constitutional majority, was declared passed.

HOUSE AMENDMENT TO SENATE BILL

April 18, 2005

Mr. Speaker:

The Senate refuses to concur in the House amendment to ENGROSSED SUBSTITUTE SENATE BILL NO. 5308 and asks the House to recede therefrom.

Thomas Hoemann, Secretary

There being no objection, the House receded from its position and passed to final passage ENGROSSED SUBSTITUTE SENATE BILL NO. 5308 without the House's amendments.

Representative Kagi spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5308.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5308, without House amendment and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5308, without House amendment having received the constitutional majority, was declared passed.

HOUSE AMENDMENT TO SENATE BILL

April 18, 2005

Mr. Speaker:

The Senate refuses to concur in the House amendment to ENGROSSED SUBSTITUTE SENATE BILL NO. 5719 and asks the House to recede therefrom.

Thomas Hoemann, Secretary

There being no objection, the House receded from its position and passed to final passage ENGROSSED SUBSTITUTE SENATE BILL NO. 5719 without the House's amendments.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5719.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5719, without House amendment and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa,

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Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5719, without House amendment having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 18, 2005

Mr. Speaker:

The Senate concurred in the House amendment 5850-S AMH CONW REIN 183 to SUBSTITUTE SENATE BILL NO. 5850, and asks the House to recede from House amendment 5850-S AMH CL REIN 153, and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House receded from amendment 5850-S AMH CL REIN 153 to SUBSTITUTE SENATE BILL NO. 5850 and passed the bill to final passage without the amendment.

FINAL PASSAGE OF SENATE BILL

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute Senate Bill No. 5850 without the House amendment.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5850, with certain House amendments and the bill passed the House by the following vote: Yeas - 71, Nays - 27, Absent - 0, Excused - 0.

Voting yea: Representatives Appleton, Armstrong, Bailey, Blake, Campbell, Chandler, Chase, Clibborn, Cody, Conway, Curtis, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Priest, Quall, Roberts, Santos, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Takko, Tom, Upthegrove, Walsh, Williams, Wood, Woods and Mr. Speaker - 71.

Voting nay: Representatives Ahern, Alexander, Anderson, Buck, Buri, Clements, Condotta, Cox, Crouse, DeBolt, Dunn, Ericksen, Hinkle, Holmquist, Kretz, Kristiansen, McCune, Newhouse, Nixon, Orcutt, Pearson, Roach, Rodne, Schindler, Sump, Talcott and Wallace - 27.

SUBSTITUTE SENATE BILL NO. 5850, with certain House amendments having received the constitutional majority, was declared passed.

HOUSE AMENDMENT TO SENATE MESSAGE

April 18, 2005

Mr. Speaker:

The Senate refuses to concur in the House amendment to SUBSTITUTE SENATE BILL NO. 5492 and asks the House to recede therefrom.

Thomas Hoemann, Secretary

There being no objection, the House receded from its amendment, suspended the rules and returned SUBSTITUTE SENATE BILL NO. 5492 to Second Reading for purpose of amendments.

There being no objection, the House reverted to the sixth order of business.

SECOND READING

SUBSTITUTE SENATE BILL NO. 5492, By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Keiser, Deccio, Kline, Parlette, Mulliken and Pflug; by request of Department of Health)

Modifying hospital reporting of restrictions on health care practitioners.

Representative Cody moved the adoption of the following amendment (583):

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.41.210 and 1994 sp.s. c 9 s 743 are each amended to read as follows:

(1) The chief administrator or executive officer of a hospital shall report to the ((~~medical quality assurance commission when a physician's clinical privileges are terminated or are restricted based on a determination, in accordance with an institution's bylaws, that a physician has either committed an act or acts which may constitute unprofessional conduct. The officer shall also report if a physician accepts voluntary termination in order to foreclose or terminate actual or possible hospital action to suspend, restrict, or terminate a physician's clinical privileges~~)) department when the practice of a health care practitioner as defined in subsection (2) of this section is restricted, suspended, limited, or terminated based upon a conviction, determination, or finding by the hospital that the health care practitioner has committed an action defined as unprofessional

conduct under RCW 18.130.180. The chief administrator or executive officer shall also report any voluntary restriction or termination of the practice of a health care practitioner as defined in subsection (2) of this section while the practitioner is under investigation or the subject of a proceeding by the hospital regarding unprofessional conduct, or in return for the hospital not conducting such an investigation or proceeding or not taking action. The department will forward the report to the appropriate disciplining authority.

(2) The reporting requirements apply to the following health care practitioners: Pharmacists as defined in chapter 18.64 RCW; advanced registered nurse practitioners as defined in chapter 18.79 RCW; dentists as defined in chapter 18.32 RCW; naturopaths as defined in chapter 18.36A RCW; optometrists as defined in chapter 18.53 RCW; osteopathic physicians and surgeons as defined in chapter 18.57 RCW; osteopathic physician assistants as defined in chapter 18.57A RCW; physicians as defined in chapter 18.71 RCW; physician assistants as defined in chapter 18.71A RCW; podiatric physicians and surgeons as defined in chapter 18.22 RCW; and psychologists as defined in chapter 18.83 RCW.

((~~Such a~~)) (3) Reports made under subsection (1) of this section shall be made within ((~~sixty~~)) fifteen days of the date ((~~action was taken by the hospital's peer review committee or the physician's acceptance of voluntary termination or restriction of privileges~~)): (a) A conviction, determination, or finding is made by the hospital that the health care practitioner has committed an action defined as unprofessional conduct under RCW 18.130.180; or (b) the voluntary restriction or termination of the practice of a health care practitioner, including his or her voluntary resignation, while under investigation or the subject of proceedings regarding unprofessional conduct under RCW 18.130.180 is accepted by the hospital.

(4) Failure of a hospital to comply with this section is punishable by a civil penalty not to exceed two hundred fifty dollars.

(5) A hospital, its chief administrator, or its executive officer who files a report under this section is immune from suit, whether direct or derivative, in any civil action related to the filing or contents of the report, unless the conviction, determination, or finding on which the report and its content are based is proven to not have been made in good faith. The prevailing party in any action brought alleging the conviction, determination, finding, or report was not made in good faith, shall be entitled to recover the costs of litigation, including reasonable attorneys' fees.

(6) The department shall forward reports made under subsection (1) of this section to the appropriate disciplining authority designated under Title 18 RCW within fifteen days of the date the report is received by the department. The department shall notify a hospital that has made a report under subsection (1) of this section of the results of the disciplining authority's case disposition decision within fifteen days after the case disposition. Case disposition is the decision whether to issue a statement of charges, take informal action, or close the complaint without action against a practitioner. In its biennial report to the legislature under RCW 18.130.310, the department shall specifically identify the case dispositions of reports made by hospitals under subsection (1) of this section.

(7) The department shall not increase hospital license fees to carry out this section before July 1, 2007.

Sec. 2. RCW 18.130.070 and 1998 c 132 s 8 are each amended to read as follows:

(1) The disciplining authority may adopt rules requiring any person, including, but not limited to, licensees, corporations, organizations, health care facilities, impaired practitioner programs, or voluntary substance abuse monitoring programs approved by the disciplining authority and state or local governmental agencies, to report to the disciplining authority any conviction, determination, or finding that a license holder has committed an act which constitutes unprofessional conduct, or to report information to the disciplining authority, an impaired practitioner program, or voluntary substance abuse monitoring program approved by the disciplining authority, which indicates that the license holder may not be able to practice his or her profession with reasonable skill and safety to consumers as a result of a mental or physical condition. If a report has been made by a hospital to the department pursuant to RCW 70.41.210, a report to the disciplining authority is not required. To facilitate meeting the intent of this section, the cooperation of agencies of the federal government is requested by reporting any conviction, determination, or finding that a federal employee or contractor regulated by the ((~~disciplinary~~)) disciplining authorities enumerated in this chapter has committed an act which constituted unprofessional conduct and reporting any information which indicates that a federal employee or contractor regulated by the ((~~disciplinary~~)) disciplining authorities enumerated in this chapter may not be able to practice his or her profession with reasonable skill and safety as a result of a mental or physical condition.

(2) If a person fails to furnish a required report, the disciplining authority may petition the superior court of the county in which the person resides or is found, and the court shall issue to the person an order to furnish the required report. A failure to obey the order is a contempt of court as provided in chapter 7.21 RCW.

(3) A person is immune from civil liability, whether direct or derivative, for providing information to the disciplining authority pursuant to the rules adopted under subsection (1) of this section.

(4) The holder of a license subject to the jurisdiction of this chapter shall report to the disciplining authority any conviction, determination, or finding that the licensee has committed unprofessional conduct or is unable to practice with reasonable skill or safety. Failure to report within thirty days of notice of the conviction, determination, or finding constitutes grounds for disciplinary action."

Correct the title.

Representatives Cody and Bailey spoke in favor of adoption of the amendment.

The amendment was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House was placed on final passage.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5492, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5492, as amended by the House and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

SUBSTITUTE SENATE BILL NO. 5492, as amended by the House, having received the necessary constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 14, 2005

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1290, with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 71.24.015 and 2001 c 334 s 6 and 2001 c 323 s 1 are each reenacted and amended to read as follows:

It is the intent of the legislature to establish a community mental health program which shall help people experiencing mental illness to retain a respected and productive position in the community. This will be accomplished through programs that focus on resilience and recovery, and practices that are evidence-based, research-based, consensus-based, or, where these do not exist, promising or emerging best practices, which provide for:

(1) Access to mental health services for adults of the state who are acutely mentally ill, chronically mentally ill, or seriously disturbed and children of the state who are acutely mentally ill, severely emotionally disturbed, or seriously disturbed, which services recognize the special needs of underserved populations, including minorities, children, the elderly, disabled, and low-income persons. Access to mental health services shall not be limited by a person's history of confinement in a state, federal, or local correctional facility. It is also the purpose of this chapter to promote the early identification of mentally ill children and to ensure that they receive the mental health care and treatment which is appropriate to their developmental level. This care should improve home, school, and community functioning, maintain children in a safe and nurturing home environment, and should enable treatment decisions to be made in response to clinical needs in accordance with sound professional judgment while also recognizing parents' rights to participate in treatment decisions for their children;

(2) The involvement of persons with mental illness, their family members, and advocates in designing and implementing mental health services that reduce unnecessary hospitalization and incarceration and promote the recovery and employment of persons with mental illness. To improve the quality of services available and promote the rehabilitation, recovery, and reintegration of persons with mental illness, consumer and advocate participation in mental health services is an integral part of the community mental health system and shall be supported;

(3) Accountability of efficient and effective services through state of the art outcome and performance measures and statewide standards for monitoring client and system outcomes, performance, and reporting of client and system outcome information. These processes shall be designed so as to maximize the use of available resources for direct care of people with a mental illness and to assure uniform data collection across the state;

((~~(3)~~)) (4) Minimum service delivery standards;

((~~(4)~~)) (5) Priorities for the use of available resources for the care of the mentally ill consistent with the priorities defined in the statute;

((~~(5)~~)) (6) Coordination of services within the department, including those divisions within the department that provide services to children, between the department and the office of the superintendent of public instruction, and among state mental hospitals, county authorities, regional support networks, community mental health services, and other support services, which shall to the maximum extent feasible also include the families of the mentally ill, and other service providers; and

((~~(6)~~)) (7) Coordination of services aimed at reducing duplication in service delivery and promoting complementary services among all entities that provide mental health services to adults and children.

It is the policy of the state to encourage the provision of a full range of treatment and rehabilitation services in the state for mental disorders including services operated by consumers and advocates. The legislature intends to encourage the development of ((~~county-based and county-managed~~)) regional mental health services with adequate local flexibility to assure eligible people in need of care access to the least-restrictive treatment alternative appropriate to their needs, and the availability of treatment components to assure continuity of care. To this end, counties are encouraged to enter into joint operating agreements with other counties to form regional systems of care ((~~which~~)). Regional systems of care, whether operated by a county, group of counties, or another entity shall integrate planning, administration, and service delivery duties ((~~assigned to counties~~)) under chapters 71.05 and 71.24 RCW to consolidate administration, reduce administrative layering, and reduce administrative costs. The legislature hereby finds and declares that sound fiscal management requires vigilance to ensure that funds appropriated by the legislature for the provision of needed community mental health programs and services are ultimately expended solely for the purpose for which they were appropriated, and not for any other purpose.

It is further the intent of the legislature to integrate the provision of services to provide continuity of care through all phases of treatment. To this end the legislature intends to promote active engagement with mentally ill persons and collaboration between families and service providers.

Sec. 2. RCW 71.24.025 and 2001 c 323 s 8 are each amended to read as follows:

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

(1) "Acutely mentally ill" means a condition which is limited to a short-term severe crisis episode of:

(a) A mental disorder as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020;

(b) Being gravely disabled as defined in RCW 71.05.020 or, in the case of a child, a gravely disabled minor as defined in RCW 71.34.020; or

(c) Presenting a likelihood of serious harm as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

(2) "Available resources" means funds appropriated for the purpose of providing community mental health programs ((~~under RCW 71.24.045~~)), federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during any biennium for the purpose of providing residential services, resource management services, community support services, and other mental health services. This does not include funds appropriated for the purpose of operating and administering the state psychiatric hospitals, except as negotiated according to RCW 71.24.300(1)(((~~c~~))) (d).

(3) "Child" means a person under the age of eighteen years.

(4) "Chronically mentally ill adult" means an adult who has a mental disorder and meets at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years; or

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year; or

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months. "Substantial gainful activity" shall be defined by the department by rule consistent with Public Law 92-603, as amended.

(5) "Community mental health program" means all mental health services, activities, or programs using available resources.

(6) "Community mental health service delivery system" means public or private agencies that provide services specifically to persons with mental disorders as defined under RCW 71.05.020 and receive funding from public sources.

(7) "Community support services" means services authorized, planned, and coordinated through resource management services including, at a minimum, assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a week, prescreening determinations for mentally ill persons being considered for placement in nursing homes as required by federal law, screening for patients being considered for admission to residential services, diagnosis and treatment for acutely mentally ill and severely emotionally disturbed children discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment program, investigation, legal, and other nonresidential services under chapter 71.05 RCW, case management services, psychiatric treatment including medication supervision, counseling, psychotherapy, assuring transfer of relevant patient information between service providers, recovery services, and other services determined by regional support networks.

(8) "Consensus-based" means a program or practice that has general support among treatment providers and experts, based on experience or professional literature, and may have anecdotal or case study support, or that is agreed but not possible to perform studies with random assignment and controlled groups.

(9) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a community mental health program, or two or more of the county authorities specified in this subsection which have entered into an agreement to provide a community mental health program.

(((~~(9)~~))) (10) "Department" means the department of social and health services.

(((~~(10)~~))) (11) "Designated mental health professional" means a mental health professional designated by the county or other authority authorized in rule to perform the duties specified in this chapter.

(12) "Emerging best practice" or "promising practice" means a practice that presents, based on preliminary information, potential for becoming a research-based or consensus-based practice.

(13)"Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population.

(14) "Licensed service provider" means an entity licensed according to this chapter or chapter 71.05 RCW or an entity deemed to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department, that meets state minimum standards or individuals licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners.

(((~~(11)~~))) (15) "Mental health services" means all services provided by regional support networks and other services provided by the state for the mentally ill.

(((~~(12)~~))) (16) "Mentally ill persons" and "the mentally ill" mean persons and conditions defined in subsections (1), (4), (((~~(17)~~))) (24), and (((~~(18)~~))) (25) of this section.

(((~~(13)~~))) (17) "Recovery" means the process in which people are able to live, work, learn, and participate fully in their communities.

(18) "Regional support network" means a county authority or group of county authorities or other entity recognized by the secretary ((~~that enter into joint operating agreements to contract with the secretary pursuant to this chapter~~)) in contract in a defined region.

(((~~(14)~~))) (19) "Residential services" means a complete range of residences and supports authorized by resource management services and which may involve a facility, a distinct part thereof, or services which support community living, for acutely mentally ill persons, chronically mentally ill adults, severely emotionally disturbed children, or seriously disturbed adults determined by the regional support network to be at risk of becoming acutely or chronically mentally ill. The services shall include at least evaluation and treatment services as defined in chapter 71.05 RCW, acute crisis respite care, long-term adaptive and rehabilitative care, and supervised and supported living services, and shall also include any residential services developed to service mentally ill persons in nursing homes, boarding homes, and adult family homes. Residential services for children in out-of-home placements related to their mental disorder shall not include the costs of food and shelter, except for children's long-term residential facilities existing prior to January 1, 1991.

(((~~(15)~~))) (20) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(21) "Resilience" means the personal and community qualities that enable individuals to rebound from adversity, trauma, tragedy, threats, or other stresses, and to live productive lives.

(22) "Resource management services" mean the planning, coordination, and authorization of residential services and community support services administered pursuant to an individual service plan for: (a) Acutely mentally ill adults and children; (b) chronically mentally ill adults; (c) severely emotionally disturbed children; or (d) seriously disturbed adults determined solely by a regional support network to be at risk of becoming acutely or chronically mentally ill. Such planning, coordination, and authorization shall include mental health screening for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment program. Resource management services include seven day a week, twenty-four hour a day availability of information regarding mentally ill adults' and children's enrollment in services and their individual service plan to county-designated mental health professionals, evaluation and treatment facilities, and others as determined by the regional support network.

(((~~(16)~~))) (23) "Secretary" means the secretary of social and health services.

(((~~(17)~~))) (24) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to himself or herself or others, or to the property of others, as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status, or under a less restrictive alternative order, at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a child diagnosed by a mental health professional, as defined in chapter 71.34 RCW, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

(((~~(18)~~))) (25) "Severely emotionally disturbed child" means a child who has been determined by the regional support network to be experiencing a mental disorder as defined in chapter 71.34 RCW, including those mental disorders that result in a behavioral or conduct disorder, that is clearly interfering with the child's functioning in family or school or with peers and who meets at least one of the following criteria:

(a) Has undergone inpatient treatment or placement outside of the home related to a mental disorder within the last two years;

(b) Has undergone involuntary treatment under chapter 71.34 RCW within the last two years;

(c) Is currently served by at least one of the following child-serving systems: Juvenile justice, child-protection/welfare, special education, or developmental disabilities;

(d) Is at risk of escalating maladjustment due to:

(i) Chronic family dysfunction involving a mentally ill or inadequate caretaker;

(ii) Changes in custodial adult;

(iii) Going to, residing in, or returning from any placement outside of the home, for example, psychiatric hospital, short-term inpatient, residential treatment, group or foster home, or a correctional facility;

(iv) Subject to repeated physical abuse or neglect;

(v) Drug or alcohol abuse; or

(vi) Homelessness.

(((~~(19)~~))) (26) "State minimum standards" means minimum requirements established by rules adopted by the secretary and necessary to implement this chapter for: (a) Delivery of mental health services; (b) licensed service providers for the provision of mental health services; (c) residential services; and (d) community support services and resource management services.

(((~~(20)~~))) (27) "Tribal authority," for the purposes of this section and RCW 71.24.300 only, means: The federally recognized Indian tribes and the major Indian organizations recognized by the secretary insofar as these organizations do not have a financial relationship with any regional support network that would present a conflict of interest.

Sec. 3. RCW 71.24.030 and 2001 c 323 s 9 are each amended to read as follows:

The secretary is authorized to make grants ((~~to~~)) and/or purchase services from counties ((~~or~~)), combinations of counties ((~~in the establishment and operation of~~)), or other entities, to establish and operate community mental health programs.

NEW SECTION. **Sec. 4.** A new section is added to chapter 71.24 RCW to read as follows:

(1) The secretary shall initiate a procurement process for regional support networks in 2005. In the first step of the procurement process, existing regional support networks may respond to a request for qualifications developed by the department. The secretary shall issue the request for qualifications not later than October 1, 2005. The request for qualifications shall be based on cost-effectiveness, adequate residential and service capabilities, effective collaboration with criminal justice agencies and the chemical dependency treatment system, and the ability to provide the full array of services as stated in the mental health state plan, and shall meet all applicable federal and state regulations and standards. An existing regional support network shall be awarded the contract with the department if it substantially meets the requirements of the request for qualifications developed by the department.

(2) If an existing regional support network chooses not to respond to the request for qualifications, or is unable to substantially meet the requirements of the request for qualifications, the department shall utilize a procurement process in which other entities recognized by the secretary may bid to serve as the regional support network in that region. The procurement process shall begin with a request for proposals issued March 1, 2006.

NEW SECTION. **Sec. 5.** A new section is added to chapter 71.24 RCW to read as follows:

There shall be not less than eight and not more than fourteen regional support networks.

NEW SECTION. **Sec. 6.** A new section is added to chapter 71.24 RCW to read as follows:

(1) Contracts between a regional support network and the department shall include mechanisms for monitoring performance under the contract and remedies for failure to substantially comply with the requirements of the contract including, but not limited to, financial penalties, termination of the contract, and reprocurement of the contract.

(2) The procurement process shall encourage the preservation of infrastructure previously purchased by the community mental health service delivery system, the maintenance of linkages between other services and delivery systems, and maximization of the use of available funds for services versus profits. The procurement process shall provide that public funds appropriated by the legislature shall not be used to promote or deter, encourage, or discourage employees

from exercising their rights under Title 29, chapter 7, subchapter II, United States Code or chapter 41.56 RCW.

(3) In addition to the requirements of RCW 71.24.035, contracts shall:

(a) Define administrative costs and ensure that the regional support network does not exceed an administrative cost of ten percent of available funds;

(b) Require effective collaboration with law enforcement, criminal justice agencies, and the chemical dependency treatment system;

(c) Require substantial implementation of department adopted integrated screening and assessment process and matrix of best practices; and

(d) Maintain the decision-making independence of designated mental health professionals.

Sec. 7. RCW 71.24.035 and 2001 c 334 s 7 and 2001 c 323 s 10 are each reenacted and amended to read as follows:

(1) The department is designated as the state mental health authority.

(2) The secretary shall provide for public, client, and licensed service provider participation in developing the state mental health program, developing contracts with regional support networks, and any waiver request to the federal government under medicaid.

(3) The secretary shall provide for participation in developing the state mental health program for children and other underserved populations, by including representatives on any committee established to provide oversight to the state mental health program.

(4) The secretary shall be designated as the ((~~county authority if a county fails~~)) regional support network if the regional support network fails to meet state minimum standards or refuses to exercise responsibilities under RCW 71.24.045.

(5) The secretary shall:

(a) Develop a biennial state mental health program that incorporates ((~~county~~)) regional biennial needs assessments and ((~~county~~)) regional mental health service plans and state services for mentally ill adults and children. The secretary ((~~may~~)) shall also develop a six-year state mental health plan;

(b) Assure that any regional or county community mental health program provides access to treatment for the ((~~county's~~)) region's residents in the following order of priority: (i) The acutely mentally ill; (ii) chronically mentally ill adults and severely emotionally disturbed children; and (iii) the seriously disturbed. Such programs shall provide:

(A) Outpatient services;

(B) Emergency care services for twenty-four hours per day;

(C) Day treatment for mentally ill persons which includes training in basic living and social skills, supported work, vocational rehabilitation, and day activities. Such services may include therapeutic treatment. In the case of a child, day treatment includes age-appropriate basic living and social skills, educational and prevocational services, day activities, and therapeutic treatment;

(D) Screening for patients being considered for admission to state mental health facilities to determine the appropriateness of admission;

(E) Employment services, which may include supported employment, transitional work, placement in competitive employment, and other work-related services, that result in mentally ill persons becoming engaged in meaningful and gainful full or part-time work. Other sources of funding such as the division of vocational rehabilitation may be utilized by the secretary to maximize federal funding and provide for integration of services;

(F) Consultation and education services; and

(G) Community support services;

(c) Develop and adopt rules establishing state minimum standards for the delivery of mental health services pursuant to RCW 71.24.037 including, but not limited to:

(i) Licensed service providers. These rules shall permit a county-operated mental health program to be licensed as a service provider subject to compliance with applicable statutes and rules. The secretary shall provide for deeming of compliance with state minimum standards for those entities accredited by recognized behavioral health accrediting bodies recognized and having a current agreement with the department;

(ii) Regional support networks; and

(iii) Inpatient services, evaluation and treatment services and facilities under chapter 71.05 RCW, resource management services, and community support services;

(d) Assure that the special needs of minorities, the elderly, disabled, children, and low-income persons are met within the priorities established in this section;

(e) Establish a standard contract or contracts, consistent with state minimum standards and sections 4 and 6 of this act, which shall be used in contracting with regional support networks ((~~or counties~~)). The standard contract shall include a maximum fund balance, which shall ((~~not exceed ten percent~~)) be consistent with that required by federal regulations or waiver stipulations;

(f) Establish, to the extent possible, a standardized auditing procedure which minimizes paperwork requirements of ((~~county authorities~~)) regional support networks and licensed service providers. The audit procedure shall focus on the outcomes of service and not the processes for accomplishing them;

(g) Develop and maintain an information system to be used by the state((~~, counties,~~)) and regional support networks that includes a tracking method which allows the department and regional support networks to identify mental health clients' participation in any mental health service or public program on an immediate basis. The information system shall not include individual patient's case history files. Confidentiality of client information and records shall be maintained as provided in this chapter and in RCW 71.05.390, 71.05.400, 71.05.410, 71.05.420, 71.05.430, and 71.05.440((~~. The design of the system and the data elements to be collected shall be reviewed by the work group appointed by the secretary under section 5(1) of this act and representing the department, regional support networks, service providers, consumers, and advocates. The data elements shall be designed to provide information that is needed to measure performance and achieve the service outcomes identified in section 5 of this act~~));

(h) License service providers who meet state minimum standards;

(i) Certify regional support networks that meet state minimum standards;

(j) Periodically monitor the compliance of certified regional support networks and their network of licensed service providers for compliance with the contract between the department, the regional support network, and federal and state rules at reasonable times and in a reasonable manner;

(k) Fix fees to be paid by evaluation and treatment centers to the secretary for the required inspections;

(l) Monitor and audit ((~~counties,~~)) regional support networks((~~,~~)) and licensed service providers as needed to assure compliance with contractual agreements authorized by this chapter; ((~~and~~))

(m) Adopt such rules as are necessary to implement the department's responsibilities under this chapter; and

(n) Assure the availability of an appropriate amount, as determined by the legislature in the operating budget by amounts appropriated for this specific purpose, of community-based, geographically distributed residential services.

(6) The secretary shall use available resources only for regional support networks, except to the extent authorized, and in accordance with any priorities or conditions specified, in the biennial appropriations act.

(7) Each certified regional support network and licensed service provider shall file with the secretary, on request, such data, statistics, schedules, and information as the secretary reasonably requires. A certified regional support network or licensed service provider which, without good cause, fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent reports thereof, may have its certification or license revoked or suspended.

(8) The secretary may suspend, revoke, limit, or restrict a certification or license, or refuse to grant a certification or license for failure to conform to: (a) The law; (b) applicable rules and regulations; (c) applicable standards; or (d) state minimum standards.

(9) The superior court may restrain any regional support network or service provider from operating without certification or a license or any other violation of this section. The court may also review, pursuant to procedures contained in chapter 34.05 RCW, any denial, suspension, limitation, restriction, or revocation of certification or license, and grant other relief required to enforce the provisions of this chapter.

(10) Upon petition by the secretary, and after hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the secretary authorizing him or her to enter at reasonable times, and examine the records, books, and accounts of any regional support network or service provider refusing to consent to inspection or examination by the authority.

(11) Notwithstanding the existence or pursuit of any other remedy, the secretary may file an action for an injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, or operation of a regional support network or service provider without certification or a license under this chapter.

(12) The standards for certification of evaluation and treatment facilities shall include standards relating to maintenance of good physical and mental health and other services to be afforded persons pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall otherwise assure the effectuation of the purposes of these chapters.

(13)(a) The department, in consultation with affected parties, shall establish a distribution formula that reflects ((~~county~~)) regional needs assessments based on the number of persons who are acutely mentally ill, chronically mentally ill, severely emotionally disturbed children, and seriously disturbed. The formula shall take into consideration the impact on ((~~counties~~)) regions of demographic factors ((~~in counties~~)) which result in concentrations of priority populations as set forth in subsection (5)(b) of this section. These factors shall include the population concentrations resulting from commitments under chapters 71.05 and 71.34 RCW to state psychiatric hospitals, as well as concentration in urban areas, at border crossings at state boundaries, and other significant demographic and workload factors.

(b) The formula shall also include a projection of the funding allocations that will result for each ((~~county~~)) region, which specifies allocations according to priority populations, including the allocation for services to children and other underserved populations.

(c) After July 1, 2003, the department may allocate up to two percent of total funds to be distributed to the regional support networks for incentive payments to reward the achievement of superior outcomes, or significantly improved outcomes, as measured by a statewide performance measurement system consistent with the framework recommended in the joint legislative audit and review committee's performance audit of the mental health system. The department shall annually report to the legislature on its criteria and allocation of the incentives provided under this subsection.

(14) The secretary shall assume all duties assigned to the nonparticipating ((~~counties~~)) regional support networks under chapters 71.05, 71.34, and 71.24 RCW. Such responsibilities shall include those which would have been assigned to the nonparticipating counties ((~~under~~)) in regions where there are not participating regional support networks.

The regional support networks, or the secretary's assumption of all responsibilities under chapters 71.05, 71.34, and 71.24 RCW, shall be included in all state and federal plans affecting the state mental health program including at least those required by this chapter, the medicaid program, and P.L. 99-660. Nothing in these plans shall be inconsistent with the intent and requirements of this chapter.

(15) The secretary shall:

(a) Disburse funds for the regional support networks within sixty days of approval of the biennial contract. The department must either approve or reject the biennial contract within sixty days of receipt.

(b) Enter into biennial contracts with regional support networks. The contracts shall be consistent with available resources. No contract shall be approved that does not include progress toward meeting the goals of this chapter by taking responsibility for: (i) Short-term commitments; (ii) residential care; and (iii) emergency response systems.

(c) ((~~Allocate one hundred percent of available resources to the regional support networks in accordance with subsection (13) of this section. Incentive payments authorized under subsection (13) of this section may be allocated separately from other available resources.~~

~~(d)~~)) Notify regional support networks of their allocation of available resources at least sixty days prior to the start of a new biennial contract period.

(((~~(c)~~))) (d) Deny funding allocations to regional support networks based solely upon formal findings of noncompliance with the terms of the regional support network's contract with the department. Written notice and at least thirty days for corrective action must precede any such action. In such cases, regional support networks shall have full rights to appeal under chapter 34.05 RCW.

(16) The department, in cooperation with the state congressional delegation, shall actively seek waivers of federal requirements and such modifications of federal regulations as are necessary to allow federal medicaid reimbursement for services provided by free-standing evaluation and treatment facilities certified under chapter 71.05 RCW. The department shall periodically report its efforts to the appropriate committees of the senate and the house of representatives.

Sec. 8. RCW 71.24.045 and 2001 c 323 s 12 are each amended to read as follows:

The ((~~county authority~~)) regional support network shall:

(1) Contract as needed with licensed service providers. The ((~~county authority~~)) regional support network may, in the absence of a licensed service provider entity, become a licensed service provider entity pursuant to minimum standards required for licensing by the

department for the purpose of providing services not available from licensed service providers;

(2) Operate as a licensed service provider if it deems that doing so is more efficient and cost effective than contracting for services. When doing so, the ((~~county authority~~)) regional support network shall comply with rules promulgated by the secretary that shall provide measurements to determine when a ((~~county~~)) regional support network provided service is more efficient and cost effective;

(3) Monitor and perform biennial fiscal audits of licensed service providers who have contracted with the ((~~county~~)) regional support network to provide services required by this chapter. The monitoring and audits shall be performed by means of a formal process which insures that the licensed service providers and professionals designated in this subsection meet the terms of their contracts;

(4) Assure that the special needs of minorities, the elderly, disabled, children, and low-income persons are met within the priorities established in this chapter;

(5) Maintain patient tracking information in a central location as required for resource management services and the department's information system;

(6) Use not more than two percent of state-appropriated community mental health funds, which shall not include federal funds, to administer community mental health programs under RCW 71.24.155: PROVIDED, That county authorities serving a county or combination of counties whose population is one hundred twenty-five thousand or more may be entitled to sufficient state-appropriated community mental health funds to employ up to one full-time employee or the equivalent thereof in addition to the two percent limit established in this subsection when such employee is providing staff services to a county mental health advisory board;

(7) Collaborate to ensure that policies do not result in an adverse shift of mentally ill persons into state and local correctional facilities;

(8) Work with the department to expedite the enrollment or re-enrollment of eligible persons leaving state or local correctional facilities and institutions for mental diseases;

(9) If a regional support network is not operated by the county, work closely with the county designated mental health professional or county designated crisis responder to maximize appropriate placement of persons into community services; and

(10) Coordinate services for individuals who have received services through the community mental health system and who become patients at a state mental hospital.

Sec. 9. RCW 71.24.100 and 1982 c 204 s 7 are each amended to read as follows:

A county authority or a group of county authorities may enter into a joint operating agreement to form a regional support network. Any agreement between two or more county authorities for the establishment of a ((~~community mental health program~~)) regional support network shall provide:

(1) That each county shall bear a share of the cost of mental health services; and

(2) That the treasurer of one participating county shall be the custodian of funds made available for the purposes of such mental health services, and that the treasurer may make payments from such funds upon audit by the appropriate auditing officer of the county for which he is treasurer.

Sec. 10. RCW 71.24.240 and 1982 c 204 s 13 are each amended to read as follows:

In order to establish eligibility for funding under this chapter, any ((~~county or counties~~)) regional support network seeking to obtain federal funds for the support of any aspect of a community mental health program as defined in this chapter shall submit program plans to the secretary for prior review and approval before such plans are submitted to any federal agency.

Sec. 11. RCW 71.24.300 and 2001 c 323 s 17 are each amended to read as follows:

((~~A county authority or a group of county authorities whose combined population is no less than forty thousand may enter into a joint operating agreement to form a regional support network.~~)) Upon the request of a tribal authority or authorities within a regional support network the joint operating agreement or the county authority shall allow for the inclusion of the tribal authority to be represented as a party to the regional support network. The roles and responsibilities of the county and tribal authorities shall be determined by the terms of that agreement including a determination of membership on the governing board and advisory committees, the number of tribal representatives to be party to the agreement, and the provisions of law and shall assure the provision of culturally competent services to the tribes served. The state mental health authority may not determine the roles and responsibilities of county authorities as to each other under regional support networks by rule, except to assure that all duties required of regional support networks are assigned and that counties and the regional support network do not duplicate functions and that a single authority has final responsibility for all available resources and performance under the regional support network's contract with the secretary. If a regional support network is a private entity, the department shall allow for the inclusion of the tribal authority to be represented as a party to the regional support network. The roles and responsibilities of the private entity and the tribal authorities shall be determined by the department, through negotiation with the tribal authority.

(1) Regional support networks shall submit an overall six-year operating and capital plan, timeline, and budget and submit progress reports and an updated two-year plan biennially thereafter, to assume within available resources all of the following duties:

(a) Administer and provide for the availability of all resource management services, residential services, and community support services.

(b) ((~~Assume the powers and duties of county authorities within its area as described in RCW 71.24.045 (1) through (7).~~

~~(c)~~)) Administer and provide for the availability of all investigation, transportation, court-related, and other services provided by the state or counties pursuant to chapter 71.05 RCW.

(((~~(d)~~))) (c) Provide within the boundaries of each regional support network evaluation and treatment services for at least eighty-five percent of persons detained or committed for periods up to seventeen days according to chapter 71.05 RCW. Regional support networks with populations of less than one hundred fifty thousand may contract to purchase evaluation and treatment services from other networks. Insofar as the original intent of serving persons in the community is maintained, the secretary is authorized to approve exceptions on a case-by-case basis to the requirement to provide evaluation and treatment services within the boundaries of each regional support network. Such exceptions are limited to contracts with neighboring or contiguous regions.

(((~~(e)~~))) (d) Administer a portion of funds appropriated by the legislature to house mentally ill persons in state institutions from counties within the boundaries of any regional support network, with the exception of persons currently confined at, or under the

supervision of, a state mental hospital pursuant to chapter 10.77 RCW, and provide for the care of all persons needing evaluation and treatment services for periods up to seventeen days according to chapter 71.05 RCW in appropriate residential services, which may include state institutions. The regional support networks shall reimburse the state for use of state institutions at a rate equal to that assumed by the legislature when appropriating funds for such care at state institutions during the biennium when reimbursement occurs. The secretary shall submit a report to the appropriate committees of the senate and house of representatives on the efforts to implement this section by October 1, 2002. The duty of a state hospital to accept persons for evaluation and treatment under chapter 71.05 RCW is limited by the responsibilities assigned to regional support networks under this section.

(((~~(f)~~))) (e) Administer and provide for the availability of all other mental health services, which shall include patient counseling, day treatment, consultation, education services, employment services as defined in RCW 71.24.035, and mental health services to children ((~~as provided in this chapter designed to achieve the outcomes specified in section 5 of this act~~)).

(((~~(g)~~))) (f) Establish standards and procedures for reviewing individual service plans and determining when that person may be discharged from resource management services.

(2) ((~~Regional support networks shall assume all duties assigned to county authorities by this chapter and chapter 71.05 RCW.~~

~~(3)~~)) A regional support network may request that any state-owned land, building, facility, or other capital asset which was ever purchased, deeded, given, or placed in trust for the care of the mentally ill and which is within the boundaries of a regional support network be made available to support the operations of the regional support network. State agencies managing such capital assets shall give first priority to requests for their use pursuant to this chapter.

(((~~(4)~~))) (3) Each regional support network shall appoint a mental health advisory board which shall review and provide comments on plans and policies developed under this chapter, provide local oversight regarding the activities of the regional support network, and work with the regional support network to resolve significant concerns regarding service delivery and outcomes. The department shall establish statewide procedures for the operation of regional advisory committees including mechanisms for advisory board feedback to the department regarding regional support network performance. The composition of the board shall be broadly representative of the demographic character of the region and ((~~the mentally ill persons served therein~~)) shall include, but not be limited to, representatives of consumers and families, law enforcement, and where the county is not the regional support network, county elected officials. Composition and length of terms of board members may differ between regional support networks but shall be ((~~determined~~)) included in each regional support network's contract and approved by the ((~~regional support network~~)) secretary.

(((~~(5)~~))) (4) Regional support networks shall assume all duties specified in their plans and joint operating agreements through biennial contractual agreements with the secretary.

(((~~(6) Counties or groups of counties participating in a regional support network are not subject to RCW 71.24.045(6).~~

~~(7)~~))) (5) Regional support networks may receive technical assistance from the housing trust fund and may identify and submit projects for housing and housing support services to the housing trust fund established under chapter 43.185 RCW. Projects identified or submitted under this subsection must be fully integrated with the regional support network six-year operating and capital plan, timeline, and budget required by subsection (1) of this section.

NEW SECTION. **Sec. 12.** A new section is added to chapter 74.09 RCW to read as follows:

(1) The department shall adopt rules and policies providing that when persons with a mental disorder, who were enrolled in medical assistance immediately prior to confinement, are released from confinement, their medical assistance coverage will be fully reinstated on the day of their release, subject to any expedited review of their continued eligibility for medical assistance coverage that is required under federal or state law.

(2) The department, in collaboration with the Washington association of sheriffs and police chiefs, the department of corrections, and the regional support networks, shall establish procedures for coordination between department field offices, institutions for mental disease, and correctional institutions, as defined in RCW 9.94.049, that result in prompt reinstatement of eligibility and speedy eligibility determinations for persons who are likely to be eligible for medical assistance services upon release from confinement. Procedures developed under this subsection must address:

(a) Mechanisms for receiving medical assistance services applications on behalf of confined persons in anticipation of their release from confinement;

(b) Expeditious review of applications filed by or on behalf of confined persons and, to the extent practicable, completion of the review before the person is released;

(c) Mechanisms for providing medical assistance services identity cards to persons eligible for medical assistance services immediately upon their release from confinement; and

(d) Coordination with the federal social security administration, through interagency agreements or otherwise, to expedite processing of applications for federal supplemental security income or social security disability benefits, including federal acceptance of applications on behalf of confined persons.

(3) Where medical or psychiatric examinations during a person's confinement indicate that the person is disabled, the correctional institution or institution for mental diseases shall provide the department with that information for purposes of making medical assistance eligibility and enrollment determinations prior to the person's release from confinement. The department shall, to the maximum extent permitted by federal law, use the examination in making its determination whether the person is disabled and eligible for medical assistance.

(4) For purposes of this section, "confined" or "confinement" means incarcerated in a correctional institution, as defined in RCW 9.94.049, or admitted to an institute for mental disease, as defined in 42 C.F.R. part 435, Sec. 1009 on the effective date of this section.

(5) For purposes of this section, "likely to be eligible" means that a person:

(a) Was enrolled in medicaid or supplemental security income or general assistance immediately before he or she was confined and his or her enrollment was terminated during his or her confinement; or

(b) Was enrolled in medicaid or supplemental security income or general assistance at any time during the five years before his or her confinement, and medical or psychiatric examinations during the person's confinement indicate that the person continues to be disabled and the disability is likely to last at least twelve months following release.

(6) The economic services administration shall adopt standardized statewide screening and application practices and forms designed to facilitate the application of a confined person who is likely to be eligible for medicaid.

NEW SECTION. **Sec. 13.** A new section is added to chapter 71.24 RCW to read as follows:

The secretary shall require the regional support networks to develop interlocal agreements pursuant to section 12 of this act. To this end, the regional support networks shall accept referrals for enrollment on behalf of a confined person, prior to the person's release.

NEW SECTION. **Sec. 14.** (1) A joint legislative and executive task force on mental health services delivery and financing is created. The joint task force shall consist of eight members, as follows: The secretary of the department of social and health services or his or her designee; the president of the Washington state association of counties or his or her designee; a representative from the governor's office; two members of the senate appointed by the president of the senate, one of whom shall be a member of the majority caucus and one of whom shall be a member of the minority caucus; two members of the house of representatives appointed by the speaker of the house of representatives, one of whom shall be a member of the majority caucus and one of whom shall be a member of the minority caucus; and the chair of the joint legislative audit and review committee or his or her designee. Staff support for the joint task force shall be provided by the office of financial management, the house of representatives office of program research, and senate committee services.

(2) The joint task force may create advisory committees to assist the joint task force in its work.

(3) Joint task force members may be reimbursed for travel expenses as authorized under RCW 43.03.050 and 43.03.060 and chapter 44.04 RCW, as appropriate. Advisory committee members, if appointed, shall not receive compensation or reimbursement for travel or expenses.

(4) The joint task force shall oversee and make recommendations related to:

(a) The reorganization of the mental health administrative structure within the department of social and health services;

(b) The standards and correction process and the procurement process established by sections 4 through 6 of this act, including the establishment of regional support networks through a procurement process;

(c) The extent to which the current funding distribution methodology achieves equity in funding and access to services for mental health services consumers;

(d) Serving the needs of nonmedicaid consumers for the priority populations under chapter 71.24 RCW; and

(e) The types, numbers, and locations of inpatient psychiatric hospital and community residential beds needed to serve persons with a mental illness.

(5) The joint task force shall report its initial findings and recommendations to the governor and appropriate committees of the legislature by January 1, 2006, and its final findings and recommendations by June 30, 2007.

(6) This section expires June 30, 2007.

NEW SECTION. **Sec. 15.** (1) The department of social and health services shall enter into a contract with regional support networks for the period ending August 31, 2006. The department shall issue a request for proposal to the extent required by section 4 of this act and the contract shall be effective September 1, 2006.

(2) This section expires June 30, 2007.

NEW SECTION. **Sec. 16.** The code reviser shall replace all references to "county designated mental health professional" with "designated mental health professional" in the Revised Code of Washington.

NEW SECTION. **Sec. 17.** This act does not affect any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule or order adopted under those sections, nor does it affect any proceeding instituted under those sections.

NEW SECTION. **Sec. 18.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 19.** Section 4 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 1 of the title, after "services;" strike the remainder of the title and insert "amending RCW 71.24.025, 71.24.030, 71.24.045, 71.24.100, 71.24.240, and 71.24.300; reenacting and amending RCW 71.24.015 and 71.24.035; adding new sections to chapter 71.24 RCW; adding a new section to chapter 74.09 RCW; creating new sections; providing expiration dates; and declaring an emergency."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1290 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representatives Dickerson and McDonald spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed Second Substitute House Bill No. 1290 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1290, as amended by the House and the bill passed the House by the following vote: Yeas - 94, Nays - 4, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee,

DRAFT

Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 94.

Voting nay: Representatives Blake, Kretz, Sump and Takko - 4.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1290, as amended by the House having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 14, 2005

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1314, with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 36.18.010 and 2002 c 294 s 3 are each amended to read as follows:

County auditors or recording officers shall collect the following fees for their official services:

(1) For recording instruments, for the first page eight and one-half by fourteen inches or less, five dollars; for each additional page eight and one-half by fourteen inches or less, one dollar. The fee for recording multiple transactions contained in one instrument will be calculated for each transaction requiring separate indexing as required under RCW 65.04.050 as follows: The fee for each title or transaction is the same fee as the first page of any additional recorded document; the fee for additional pages is the same fee as for any additional pages for any recorded document; the fee for the additional pages may be collected only once and may not be collected for each title or transaction;

(2) For preparing and certifying copies, for the first page eight and one-half by fourteen inches or less, three dollars; for each additional page eight and one-half by fourteen inches or less, one dollar;

(3) For preparing noncertified copies, for each page eight and one-half by fourteen inches or less, one dollar;

(4) For administering an oath or taking an affidavit, with or without seal, two dollars;

(5) For issuing a marriage license, eight dollars, (this fee includes taking necessary affidavits, filing returns, indexing, and transmittal of a record of the marriage to the state registrar of vital statistics) plus an additional five-dollar fee for use and support of the prevention of child abuse and neglect activities to be transmitted monthly to the state treasurer and deposited in the state general fund plus an additional ten-dollar fee to be transmitted monthly to the state treasurer and deposited in the state general fund. The legislature intends to appropriate an amount at least equal to the revenue generated by this fee for the purposes of the displaced homemaker act, chapter 28B.04 RCW;

(6) For searching records per hour, eight dollars;

(7) For recording plats, fifty cents for each lot except cemetery plats for which the charge shall be twenty-five cents per lot; also one dollar for each acknowledgment, dedication, and description: PROVIDED, That there shall be a minimum fee of twenty-five dollars per plat;

(8) For recording of miscellaneous records not listed above, for the first page eight and one-half by fourteen inches or less, five dollars; for each additional page eight and one-half by fourteen inches or less, one dollar;

(9) For modernization and improvement of the recording and indexing system, a surcharge as provided in RCW 36.22.170((~~,~~));

(10) For recording an emergency nonstandard document as provided in RCW 65.04.047, fifty dollars, in addition to all other applicable recording fees((~~.~~));

(11) For recording instruments, a surcharge as provided in RCW 36.22.178.

Sec. 2. RCW 36.18.016 and 2002 c 338 s 2 are each amended to read as follows:

(1) Revenue collected under this section is not subject to division under RCW 36.18.025 or 27.24.070.

(2)(a) For the filing of a petition for modification of a decree of dissolution or paternity, within the same case as the original action, a fee of twenty dollars must be paid.

(b) The party filing the first or initial petition for dissolution, legal separation, or declaration concerning the validity of marriage shall pay, at the time and in addition to the filing fee required under RCW 36.18.020, a fee of thirty dollars. The clerk of the superior court shall transmit monthly twenty-four dollars of the thirty-dollar fee collected under this subsection to the state treasury for deposit in the domestic violence prevention account. The remaining six dollars shall be retained by the county for the purpose of supporting community-based services within the county for victims of domestic violence, except for five percent of the six dollars, which may be retained by the court for administrative purposes.

(3)(a) The party making a demand for a jury of six in a civil action shall pay, at the time, a fee of one hundred twenty-five dollars; if the demand is for a jury of twelve, a fee of two hundred fifty dollars. If, after the party demands a jury of six and pays the required fee, any other party to the action requests a jury of twelve, an additional one hundred twenty-five dollar fee will be required of the party demanding the increased number of jurors.

(b) Upon conviction in criminal cases a jury demand charge of fifty dollars for a jury of six, or one hundred dollars for a jury of twelve may be imposed as costs under RCW 10.46.190.

(4) For preparing, transcribing, or certifying an instrument on file or of record in the clerk's office, with or without seal, for the first page or portion of the first page, a fee of two dollars, and for each additional page or portion of a page, a fee of one dollar must be charged. For authenticating or exemplifying an instrument, a fee of one dollar for each additional seal affixed must be charged.

(5) For executing a certificate, with or without a seal, a fee of two dollars must be charged.

(6) For a garnishee defendant named in an affidavit for garnishment and for a writ of attachment, a fee of twenty dollars must be charged.

(7) For approving a bond, including justification on the bond, in other than civil actions and probate proceedings, a fee of two dollars must be charged.

(8) For the issuance of a certificate of qualification and a certified copy of letters of administration, letters testamentary, or letters of guardianship, there must be a fee of two dollars.

(9) For the preparation of a passport application, the clerk may collect an execution fee as authorized by the federal government.

(10) For clerk's services such as processing ex parte orders, performing historical searches, compiling statistical reports, and conducting exceptional record searches, the clerk may collect a fee not to exceed twenty dollars per hour or portion of an hour.

(11) For duplicated recordings of court's proceedings there must be a fee of ten dollars for each audio tape and twenty-five dollars for each video tape.

(12) For the filing of oaths and affirmations under chapter 5.28 RCW, a fee of twenty dollars must be charged.

(13) For filing a disclaimer of interest under RCW 11.86.031(4), a fee of two dollars must be charged.

(14) For registration of land titles, Torrens Act, under RCW 65.12.780, a fee of five dollars must be charged.

(15) For the issuance of extension of judgment under RCW 6.17.020 and chapter 9.94A RCW, a fee of one hundred ten dollars must be charged.

(16) A facilitator surcharge of ten dollars must be charged as authorized under RCW 26.12.240.

(17) For filing a water rights statement under RCW 90.03.180, a fee of twenty-five dollars must be charged.

(18) A service fee of three dollars for the first page and one dollar for each additional page must be charged for receiving faxed documents, pursuant to Washington state rules of court, general rule 17.

(19) For preparation of clerk's papers under RAP 9.7, a fee of fifty cents per page must be charged.

(20) For copies and reports produced at the local level as permitted by RCW 2.68.020 and supreme court policy, a variable fee must be charged.

(21) Investment service charge and earnings under RCW 36.48.090 must be charged.

(22) Costs for nonstatutory services rendered by clerk by authority of local ordinance or policy must be charged.

(23) For filing a request for mandatory arbitration, a filing fee may be assessed against the party filing a statement of arbitrability not to exceed two hundred twenty dollars as established by authority of local ordinance. This charge shall be used solely to offset the cost of the mandatory arbitration program.

(24) For filing a request for trial de novo of an arbitration award, a fee not to exceed two hundred fifty dollars as established by authority of local ordinance must be charged.

NEW SECTION. **Sec. 3.** A new section is added to chapter 70.123 RCW to read as follows:

The domestic violence prevention account is created in the state treasury. All receipts from fees imposed for deposit in the domestic violence prevention account under RCW 36.18.016 must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for funding nonshelter community-based services for victims of domestic violence.

Sec. 4. RCW 70.123.030 and 1989 1st ex.s. c 9 s 235 are each amended to read as follows:

The department of social and health services, in consultation with the state department of health, and individuals or groups having experience and knowledge of the problems of victims of domestic violence, shall:

(1) Establish minimum standards for shelters applying for grants from the department under this chapter. Classifications may be made dependent upon size, geographic location, and population needs;

(2) Receive grant applications for the development and establishment of shelters for victims of domestic violence;

(3) Distribute funds, within forty-five days after approval, to those shelters meeting departmental standards;

(4) Evaluate biennially each shelter receiving departmental funds for compliance with the established minimum standards; ((~~and~~))

(5) Review the minimum standards each biennium to ensure applicability to community and client needs; and

(6) Administer funds available from the domestic violence prevention account under section 3 of this act and establish minimum standards for preventive, nonshelter community-based services receiving funds administered by the department. Preventive, nonshelter community-based services include services for victims of domestic violence from communities that have been traditionally underserved or unserved and services for children who have witnessed domestic violence.

Sec. 5. RCW 36.18.020 and 2000 c 9 s 1 are each amended to read as follows:

(1) Revenue collected under this section is subject to division with the state public safety and education account under RCW 36.18.025 and with the county or regional law library fund under RCW 27.24.070.

(2) Clerks of superior courts shall collect the following fees for their official services:

(a) In addition to any other fee required by law, the party filing the first or initial paper in any civil action, including, but not limited to an action for restitution, adoption, or change of name, shall pay, at the time the paper is filed, a fee of one hundred ten dollars except, in an unlawful detainer action under chapter 59.18 or 59.20 RCW for which the plaintiff shall pay a case initiating filing fee of thirty dollars, or in proceedings filed under RCW 28A.225.030 alleging a violation of the compulsory attendance laws where the petitioner shall not pay a filing fee. The thirty dollar filing fee under this subsection for an unlawful detainer action shall not include an order to show cause or any other order or judgment except a default order or default judgment in an unlawful detainer action.

(b) Any party, except a defendant in a criminal case, filing the first or initial paper on an appeal from a court of limited jurisdiction or any party on any civil appeal, shall pay, when the paper is filed, a fee of one hundred ten dollars.

(c) For filing of a petition for judicial review as required under RCW 34.05.514 a filing fee of one hundred ten dollars.

(d) For filing of a petition for unlawful harassment under RCW 10.14.040 a filing fee of forty-one dollars.

(e) For filing the notice of debt due for the compensation of a crime victim under RCW 7.68.120(2)(a) a fee of one hundred ten dollars.

(f) In probate proceedings, the party instituting such proceedings, shall pay at the time of filing the first paper therein, a fee of one hundred ten dollars.

(g) For filing any petition to contest a will admitted to probate or a petition to admit a will which has been rejected, or a petition objecting to a written agreement or memorandum as provided in

RCW 11.96A.220, there shall be paid a fee of one hundred ten dollars.

(h) Upon conviction or plea of guilty, upon failure to prosecute an appeal from a court of limited jurisdiction as provided by law, or upon affirmance of a conviction by a court of limited jurisdiction, a defendant in a criminal case shall be liable for a fee of one hundred ten dollars.

(i) With the exception of demands for jury hereafter made and garnishments hereafter issued, civil actions and probate proceedings filed prior to midnight, July 1, 1972, shall be completed and governed by the fee schedule in effect as of January 1, 1972: PROVIDED, That no fee shall be assessed if an order of dismissal on the clerk's record be filed as provided by rule of the supreme court.

(3) No fee shall be collected when a petition for relinquishment of parental rights is filed pursuant to RCW 26.33.080 or for forms and instructional brochures provided under RCW 26.50.030.

Sec. 6. RCW 36.18.022 and 1995 c 292 s 16 are each amended to read as follows:

The court may waive the filing fees provided for under RCW 36.18.016(2)(b) and 36.18.020(2) (a) and (b) upon affidavit by a party that the party is unable to pay the fee due to financial hardship."

On page 1, line 2 of the title, after "account;" strike the remainder of the title and insert "amending RCW 36.18.010, 36.18.016, 70.123.030, 36.18.020, and 36.18.022; and adding a new section to chapter 70.123 RCW."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1314 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representatives Dickerson and McDonald spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed Substitute House Bill No. 1314 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1314, as amended by the Senate and the bill passed the House by the following vote: Yeas - 80, Nays - 18, Absent - 0, Excused - 0.

Voting yea: Representatives Appleton, Bailey, Blake, Buck, Buri, Campbell, Chase, Clements, Clibborn, Cody, Conway, Cox, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Ormsby, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 80.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Chandler, Condotta, Crouse, Curtis, DeBolt, Dunn, Ericksen, Hinkle, Holmquist, Kristiansen, Orcutt, Pearson, Schindler and Springer - 18.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1314, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 6, 2005

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1379, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 66.08 RCW to read as follows:

The board shall, consistent with, and in addition to, the existing retail business plan, implement strategies to improve the efficiency of retail sales operations and maximize revenue-generating opportunities. Strategies to be implemented shall include, but are not limited to:

(1) Expanding store operations to include Sunday sales in selected liquor stores. Sunday sales are optional for liquor vendors operating agency stores;

(2) Implementing a plan of in-store liquor merchandising, including point-of-sale advertising, and product specific point-of-sale promotional displays and carousels, including displays designed and provided by vendors; and

(3) Implementing a plan for in-store liquor merchandising of brands. The plan may not include provisions for selling liquor-related items other than those items previously authorized.

NEW SECTION. **Sec. 2.** A new section is added to chapter 66.08 RCW to read as follows:

By September 1, 2005, the board shall expand operations in at least twenty state-operated retail stores to include Sundays. The board shall select the stores that are expected to gross the most revenues on Sunday by considering factors including, but not limited to, population density, proximity to shopping centers, and proximity to other businesses that are open on Sunday. The selected stores shall be open for retail business a minimum of five hours on Sunday. In implementing this program, if the board determines it would be beneficial to retain a consultant to assist the board in determining appropriate stores for the program and monitoring the results of the program, the agency is authorized to do so. The board shall track gross sales and expenses of the selected stores and compare them to previous years' sales and projected sales and expenses before opening

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on Sunday. The board shall also examine the sales of state and contract liquor stores in proximity to those stores opened on Sundays to determine whether Sunday openings has reduced the sales of other state and contract liquor stores that are not open on Sundays. The board shall present this information to the appropriate policy and fiscal committees of the legislature by January 31, 2007.

Sec. 3. RCW 66.08.060 and 1933 ex.s. c 62 s 43 are each amended to read as follows:

(1) The board shall not advertise liquor in any form or through any medium whatsoever.

(2) In-store liquor merchandising is not advertising for the purposes of this section.

(3) The board shall have power to adopt any and all reasonable ((~~regulations~~)) rules as to the kind, character, and location of advertising of liquor.

NEW SECTION. **Sec. 4.** A new section is added to chapter 66.08 RCW to read as follows:

(1) Before the board determines which state liquor stores will be open on Sundays, it shall give: (a) Due consideration to the location of the liquor store with respect to the proximity of places of worship, schools, and public institutions; (b) due consideration to motor vehicle accident data in the proximity of the liquor store; and (c) written notice by certified mail of the proposed Sunday opening, including proposed Sunday opening hours, to places of worship, schools, and public institutions within five hundred feet of the liquor store proposed to be open on Sunday.

(2) Before permitting an agency vendor liquor store to open for business on Sunday, the board must meet the due consideration and written notice requirements established in subsection (1) of this section.

(3) For the purpose of this section, "place of worship" means a building erected for and used exclusively for religious worship and schooling or other related religious activity.

NEW SECTION. **Sec. 5.** A new section is added to chapter 66.16 RCW to read as follows:

Employees in state liquor stores, including agency vendor liquor stores, may not be required to work on their Sabbath for the purpose of selling liquor if doing so would violate their religious beliefs.

NEW SECTION. **Sec. 6.** RCW 66.16.080 (Sunday closing) and 1988 c 101 s 1 & 1933 ex.s. c 62 s 11 are each repealed.

NEW SECTION. **Sec. 7.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

On page 1, line 2 of the title, after "plan;" strike the remainder of the title and insert "amending RCW 66.08.060; adding new sections to chapter 66.08 RCW; adding a new section to chapter 66.16 RCW; and repealing RCW 66.16.080."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1379 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representatives Conway and Armstrong spoke in favor the passage of the bill.

Representative Ericksen spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 1379 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1379, as amended by the Senate and the bill passed the House by the following vote: Yeas - 66, Nays - 32, Absent - 0, Excused - 0.

Voting yea: Representatives Alexander, Anderson, Appleton, Armstrong, Blake, Buck, Chase, Clibborn, Cody, Conway, Cox, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morris, Murray, Nixon, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Rodne, Santos, Schual-Berke, Sells, Serben, Simpson, Sommers, Springer, Sullivan, B., Takko, Tom, Upthegrove, Wallace, Walsh, Williams, Wood and Mr. Speaker - 66.

Voting nay: Representatives Ahern, Bailey, Buri, Campbell, Chandler, Clements, Condotta, Crouse, Ericksen, Hankins, Holmquist, Kilmer, Kretz, Kristiansen, Lantz, Linville, McCune, McDonald, Morrell, Newhouse, Orcutt, Pearson, Priest, Roach, Schindler, Shabro, Skinner, Strow, Sullivan, P., Sump, Talcott and Woods - 32.

SUBSTITUTE HOUSE BILL NO. 1379, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 11, 2005

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1418, with the following amendment:

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Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 48.43 RCW to read as follows:

(1) Except in the case of fraud, or as provided in subsection (2) and (3) of this section, a carrier may not: (a) request a refund from a health care provider of a payment previously made to satisfy a claim unless it does so in writing to the provider within twenty-four months after the date that the payment was made; or (b) request that a contested refund be paid any sooner than six months after receipt of the request. Any such request must specify why the carrier believes the provider owes the refund. If a provider fails to contest the request in writing to the carrier within thirty days of its receipt, the request is deemed accepted and the refund must be paid.

(2) A carrier may not, if doing so for reasons related to coordination of benefits with another carrier or entity responsible for payment of a claim: (a) request a refund from a health care provider of a payment previously made to satisfy a claim unless it does so in writing to the provider within thirty months after the date that the payment was made; or (b) request that a contested refund be paid any sooner than six months after receipt of the request. Any such request must specify why the carrier believes the provider owes the refund, and include the name and mailing address of the entity that has primary responsibility for payment of the claim. If a provider fails to contest the request in writing to the carrier within thirty days of its receipt, the request is deemed accepted and the refund must be paid.

(3) A carrier may at any time request a refund from a health care provider of a payment previously made to satisfy a claim if: (a) a third party, including a government entity, is found responsible for satisfaction of the claim as a consequence of liability imposed by law, such as tort liability; and (b) the carrier is unable to recover directly from the third party because the third party has either already paid or will pay the provider for the health services covered by the claim.

(4) If a contract between a carrier and a health care provider conflicts with this section, this section shall prevail. However, nothing in this section prohibits a health care provider from choosing at any time to refund to a carrier any payment previously made to satisfy a claim.

(5) For purposes of this section, "refund" means the return, either directly or through an offset to a future claim, of some or all of a payment already received by a health care provider.

(6) This section neither permits nor precludes a carrier from recovering from a subscriber, enrollee, or beneficiary any amounts paid to a health care provider for benefits to which the subscriber, enrollee, or beneficiary was not entitled under the terms and conditions of the health plan, insurance policy, or other benefit agreement.

(7) This section does not apply to claims for health care services provided through dental-only health carriers, health care services provided under Title XVIII (medicare) of the social security act, or medicare supplemental plans regulated under chapter 48.66 RCW.

NEW SECTION. **Sec. 2.** A new section is added to chapter 48.43 RCW to read as follows:

(1) Except in the case of fraud, or as provided in subsection (2) of this section, a health care provider may not: (a) request additional payment from a carrier to satisfy a claim unless he or she does so in writing to the carrier within twenty-four months after the date that the claim was denied or payment intended to satisfy the claim was made; or (b) request that the additional payment be made any sooner than six months after receipt of the request. Any such request must specify why the provider believes the carrier owes the additional payment.

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(2) A health care provider may not, if doing so for reasons related to coordination of benefits with another carrier or entity responsible for payment of a claim: (a) request additional payment from a carrier to satisfy a claim unless he or she does so in writing to the carrier within thirty months after the date the claim was denied or payment intended to satisfy the claim was made; or (b) request that the additional payment be made any sooner than six months after receipt of the request. Any such request must specify why the provider believes the carrier owes the additional payment, and include the name and mailing address of any entity that has disclaimed responsibility for payment of the claim.

(3) If a contract between a carrier and a health care provider conflicts with this section, this section shall prevail. However, nothing in this section prohibits a carrier from choosing at any time to make additional payments to a provider to satisfy a claim.

(4) This section does not apply to claims for health care services provided through dental-only health carriers, health care services provided under Title XVIII (medicare) of the social security act, or medicare supplemental plans regulated under chapter 48.66 RCW.

NEW SECTION. **Sec. 3.** This act applies to contracts issued or renewed on or after January 1, 2006."

On page 1, line 2 of the title, after "practices;" strike the remainder of the title and insert "adding new sections to chapter 48.43 RCW; and providing an effective date."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1418 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representatives Kirby and Roach spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed Second Substitute House Bill No. 1418 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1418, as amended by the Senate and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1418, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 4, 2005

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1938, with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 41.04.005 and 2002 c 292 s 1 and 2002 c 27 s 1 are each reenacted and amended to read as follows:

(1) As used in RCW 41.04.005, 41.16.220, 41.20.050, 41.40.170, and 28B.15.380 "veteran" includes every person, who at the time he or she seeks the benefits of RCW 41.04.005, 41.16.220, 41.20.050, 41.40.170, or 28B.15.380 has received an honorable discharge, is actively serving honorably, or received a discharge for physical reasons with an honorable record and who meets at least one of the following criteria:

(a) The person has served between World War I and World War II or during any period of war, as defined in subsection (2) of this section, as either:

(i) A member in any branch of the armed forces of the United States;

(ii) A member of the women's air forces service pilots;

(iii) A U.S. documented merchant mariner with service aboard an oceangoing vessel operated by the war shipping administration, the office of defense transportation, or their agents, from December 7, 1941, through December 31, 1946; or

(iv) A civil service crewmember with service aboard a U.S. army transport service or U.S. naval transportation service vessel in oceangoing service from December 7, 1941, through December 31, 1946; or

(b) The person has received the armed forces expeditionary medal, or marine corps and navy expeditionary medal, for opposed action on foreign soil, for service:

(i) In any branch of the armed forces of the United States; or

(ii) As a member of the women's air forces service pilots.

(2) A "period of war" includes:

(a) World War I;

(b) World War II;

(c) The Korean conflict;

(d) The Vietnam era(([, which])), which means:

(i) The period beginning on February 28, 1961, and ending on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during that period;

(ii) The period beginning August 5, 1964, and ending on May 7, 1975;

(e) The Persian Gulf War, which was the period beginning August 2, 1990, and ending on the date prescribed by presidential proclamation or law;

(f) The period beginning on the date of any future declaration of war by the congress and ending on the date prescribed by presidential proclamation or concurrent resolution of the congress; and

(g) The following armed conflicts, if the participant was awarded the respective campaign badge or medal: The crisis in Lebanon; the invasion of Grenada; Panama, Operation Just Cause; Somalia, Operation Restore Hope; Haiti, Operation Uphold Democracy; ((~~and~~)) Bosnia, Operation Joint Endeavor; Operation Noble Eagle; Operation Enduring Freedom; and Operation Iraqi Freedom.

Sec. 2. RCW 41.40.170 and 2002 c 27 s 2 are each amended to read as follows:

(1) A member who has served or shall serve on active federal service in the military or naval forces of the United States and who left or shall leave an employer to enter such service shall be deemed to be on military leave of absence if he or she has resumed or shall resume employment as an employee within one year from termination thereof.

(2) If he or she has applied or shall apply for reinstatement of employment, within one year from termination of the military service, and is refused employment for reasons beyond his or her control, he or she shall, upon resumption of service within ten years have such service credited to him or her.

(3) In any event, after completing twenty-five years of creditable service, any member may have service in the armed forces credited to him or her as a member whether or not he or she left the employ of an employer to enter the armed service: PROVIDED, That in no instance, described in this section, shall military service in excess of five years be credited: AND PROVIDED FURTHER, That in each instance the member must restore all withdrawn accumulated contributions, which restoration must be completed within five years of membership service following the first resumption of employment or complete twenty-five years of creditable service: AND PROVIDED FURTHER, That this section will not apply to any individual, not a veteran within the meaning of RCW 41.04.005.

(4)(a) A member, after completing twenty-five years of creditable service, who would have otherwise become eligible for a retirement benefit as defined under this chapter while serving honorably in the armed forces as referenced in RCW 41.04.005, shall, upon application to the department, be eligible to receive credit for this service without returning to covered employment.

(b) Service credit granted under (a) of this subsection applies only to veterans as defined in RCW 41.40.005.

NEW SECTION. **Sec. 3.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

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

On page 1, line 2 of the title, after "duty;" strike the remainder of the title and insert "amending RCW 41.40.170; reenacting and amending RCW 41.04.005; and declaring an emergency."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1938 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representative Hinkle spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 1938 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1938, as amended by the Senate and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

SUBSTITUTE HOUSE BILL NO. 1938, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 13, 2005

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2073, with the following amendment:

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Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 13.40.167 and 2003 c 378 s 4 are each amended to read as follows:

(1) When an offender is subject to a standard range ((~~commitment of 15 to 65 weeks~~)) disposition involving confinement by the department, the court may:

(a) Impose the standard range; or

(b) Suspend the standard range disposition on condition that the offender complies with the terms of this mental health disposition alternative.

(2) The court may impose this disposition alternative when the court finds the following:

(a) The offender has a current diagnosis, consistent with the American psychiatry association diagnostic and statistical manual of mental disorders, of axis I psychiatric disorder, excluding youth that are diagnosed as solely having a conduct disorder, oppositional defiant disorder, substance abuse disorder, paraphilia, or pedophilia;

(b) An appropriate treatment option is available in the local community;

(c) The plan for the offender identifies and addresses requirements for successful participation and completion of the treatment intervention program including: Incentives and graduated sanctions designed specifically for amenable youth, including the use of detention, detoxication, and in-patient or outpatient substance abuse treatment and psychiatric hospitalization, and structured community support consisting of mental health providers, probation, educational and vocational advocates, child welfare services, and family and community support. For any mental health treatment ordered for an offender under this section, the treatment option selected shall be chosen from among programs which have been successful in addressing mental health needs of juveniles and successful in mental health treatment of juveniles and identified as research-based best practice programs. A list of programs which meet these criteria shall be agreed upon by: The Washington association of juvenile court administrators, the juvenile rehabilitation administration of the department of social and health services, a representative of the division of public behavioral health and justice policy at the University of Washington, and the Washington institute for public policy. The list of programs shall be created not later than July 1, 2003. The group shall provide the list to all superior courts, its own membership, the legislature, and the governor. The group shall meet annually and revise the list as appropriate; and

(d) The offender, offender's family, and community will benefit from use of the mental health disposition alternative.

(3) The court on its own motion may order, or on motion by either party, shall order a comprehensive mental health evaluation to determine if the offender has a designated mental disorder. The court may also order a chemical dependency evaluation to determine if the offender also has a co-occurring chemical dependency disorder. The evaluation shall include at a minimum the following: The offender's version of the facts and the official version of the facts, the offender's offense, an assessment of the offender's mental health and drug-alcohol problems and previous treatment attempts, and the offender's social, criminal, educational, and employment history and living situation.

(4) The evaluator shall determine if the offender is amenable to research-based treatment. A proposed case management and treatment plan shall include at a minimum:

(a) The availability of treatment;

(b) Anticipated length of treatment;

(c) Whether one or more treatment interventions are proposed and the anticipated sequence of those treatment interventions;

(d) The education plan;

(e) The residential plan; and

(f) The monitoring plan.

(5) The court on its own motion may order, or on motion by either party, shall order a second mental health or chemical dependency evaluation. The party making the motion shall select the evaluator. The requesting party shall pay the cost of any examination ordered under this subsection and subsection (3) of this section unless the court finds the offender is indigent and no third party insurance coverage is available, in which case the state shall pay the cost.

(6) Upon receipt of the assessments, evaluations, and reports the court shall consider whether the offender and the community will benefit from use of the mental health disposition alternative. The court shall consider the victim's opinion whether the offender should receive the option.

(7) If the court determines that the mental health disposition alternative is appropriate, the court shall impose a standard range disposition ((~~of not more than 65 weeks~~)), suspend execution of the disposition, and place the offender on community supervision up to one year and impose one or more other local sanctions. Confinement in a secure county detention facility, other than county group homes, inpatient psychiatric treatment facilities, and substance abuse programs, shall be limited to thirty days. As a condition of a suspended disposition, the court shall require the offender to participate in the recommended treatment interventions.

(8) The treatment providers shall submit monthly reports to the court and parties on the offender's progress in treatment. The report shall reference the treatment plan and include at a minimum the following: Dates of attendance, offender's compliance with requirements, treatment activities, medication management, the offender's relative progress in treatment, and any other material specified by the court at the time of the disposition.

(9) If the offender fails to comply with the suspended disposition, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order the disposition's execution.

(10) An offender is ineligible for the mental health disposition option under this section if ((~~the offender is adjudicated of a sex or violent offense as defined in RCW 9.94A.030~~));

(a) The offender is ordered to serve a disposition for a firearm violation under RCW 13.40.193; or

(b) The offense for which the disposition is being considered is:

(i) An offense category A+, A, or A- offense, or an attempt, conspiracy, or solicitation to commit a class A+, A, or A- offense;

(ii) Manslaughter in the second degree (RCW 9A.32.070);

(iii) A sex offense as defined in RCW 9.94A.030; or

(iv) Any offense category B+ or B offense, when the offense includes infliction of bodily harm upon another or when during the commission or immediate withdrawal from the offense the respondent was armed with a deadly weapon.

(11) Subject to funds appropriated for this specific purpose, the costs incurred by the juvenile courts for the mental health and chemical dependency evaluations, treatment, and costs of supervision required under this act shall be paid by the department's juvenile rehabilitation administration."

On page 1, line 1 of the title, after "alternatives;" strike the remainder of the title and insert "and amending RCW 13.40.167."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2073 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representative McDonald spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 2073 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2073, as amended by the Senate and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

SUBSTITUTE HOUSE BILL NO. 2073, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 7, 2005

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2163, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** Despite laudable efforts by all levels of government, private individuals, nonprofit organizations, and charitable foundations to end homelessness, the number of homeless persons in Washington is unacceptably high. The state's homeless population, furthermore, includes a large number of families with children, youth, and employed persons. The legislature finds that the fiscal and societal costs of homelessness are high for both the public and private sectors, and that ending homelessness should be a goal for state and local government.

The legislature finds that there are many causes of homelessness, including a shortage of affordable housing; a shortage of family-wage jobs which undermines housing affordability; a lack of an accessible and affordable health care system available to all who suffer from physical and mental illnesses and chemical and alcohol dependency; domestic violence; and a lack of education and job skills necessary to acquire adequate wage jobs in the economy of the twenty-first century.

The support and commitment of all sectors of the statewide community is critical to the chances of success in ending homelessness in Washington. While the provision of housing and housing-related services to the homeless should be administered at the local level to best address specific community needs, the legislature also recognizes the need for the state to play a primary coordinating, supporting, and monitoring role. There must be a clear assignment of responsibilities and a clear statement of achievable and quantifiable goals. Systematic statewide data collection on homelessness in Washington must be a critical component of such a program enabling the state to work with local governments to count homeless persons and assist them in finding housing.

The systematic collection and rigorous evaluation of homeless data, a search for and implementation through adequate resource allocation of best practices, and the systematic measurement of progress toward interim goals and the ultimate goal of ending homelessness are all necessary components of a statewide effort to end homelessness in Washington by July 1, 2015.

NEW SECTION. **Sec. 2.** This chapter may be known and cited as the homelessness housing and assistance act.

NEW SECTION. **Sec. 3.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

(2) "Director" means the director of the department of community, trade, and economic development.

(3) "Homeless person" means an individual living outside or in a building not meant for human habitation or which they have no legal right to occupy, in an emergency shelter, or in a temporary housing program which may include a transitional and supportive housing program if habitation time limits exist. This definition includes substance abusers, mentally ill people, and sex offenders who are homeless.

(4) "Washington homeless census" means an annual statewide census conducted as a collaborative effort by towns, cities, counties, community-based organizations, and state agencies, with the technical support and coordination of the department, to count and collect data on all homeless individuals in Washington.

(5) "Homeless housing account" means the state treasury account receiving the state's portion of income from revenue from the sources established by section 9 of this act.

(6) "Homeless housing grant program" means the vehicle by which competitive grants are awarded by the department, utilizing

moneys from the homeless housing account, to local governments for programs directly related to housing homeless individuals and families, addressing the root causes of homelessness, preventing homelessness, collecting data on homeless individuals, and other efforts directly related to housing homeless persons.

(7) "Local government" means a county government in the state of Washington or a city government, if the legislative authority of the city affirmatively elects to accept the responsibility for housing homeless persons within its borders.

(8) "Housing continuum" means the progression of individuals along a housing-focused continuum with homelessness at one end and homeownership at the other.

(9) "Local homeless housing task force" means a voluntary local committee created to advise a local government on the creation of a local homeless housing plan and participate in a local homeless housing program. It must include a representative of the county, a representative of the largest city located within the county, at least one homeless or formerly homeless person, such other members as may be required to maintain eligibility for federal funding related to housing programs and services and if feasible, a representative of a private nonprofit organization with experience in low-income housing.

(10) "Long-term private or public housing" means subsidized and unsubsidized rental or owner-occupied housing in which there is no established time limit for habitation of less than two years.

(11) "Interagency council on homelessness" means a committee appointed by the governor and consisting of, at least, the director of the department; the secretary of the department of corrections; the secretary of the department of social and health services; the director of the department of veterans affairs; and the secretary of the department of health.

(12) "Performance measurement" means the process of comparing specific measures of success against ultimate and interim goals.

(13) "Community action agency" means a nonprofit private or public organization established under the economic opportunity act of 1964.

(14) "Housing authority" means any of the public corporations created by chapter 35.82 RCW.

(15) "Homeless housing program" means the program authorized under this chapter as administered by the department at the state level and by the local government or its designated subcontractor at the local level.

(16) "Homeless housing plan" means the ten-year plan developed by the county or other local government to address housing for homeless persons.

(17) "Homeless housing strategic plan" means the ten-year plan developed by the department, in consultation with the interagency council on homelessness and the affordable housing advisory board.

NEW SECTION. **Sec. 4.** The governor shall establish the interagency council on homelessness and appoint, at least, the director of the department, the secretary of the department of social and health services, the secretary of the department of corrections, the director of the department of veterans affairs, the director of the employment security department, the director of the department of health, and the director of the office of financial management to the council. The interagency council on homelessness shall be responsible to further the goals of the state ten-year homeless housing strategic plan to end homelessness through the following actions:

(1) Aligning housing and supporting services policies and resources among state agencies;

(2) Identifying and eliminating policies and actions which contribute to homelessness or interfere with its reduction; and

(3) Adopting or recommending new policies to improve practices and align resources, including those policies requested by the affordable housing advisory board or through state and local homeless housing plans.

NEW SECTION. **Sec. 5.** There is created within the department the homeless housing program to develop and coordinate a statewide strategic plan aimed at housing homeless persons. The program shall be developed and administered by the department with advice and input from the affordable housing advisory board established in RCW 43.185B.020.

NEW SECTION. **Sec. 6.** The department shall annually conduct a Washington homeless census or count consistent with the requirements of RCW 43.63A.655. The census shall make every effort to count all homeless individuals living outdoors, in shelters, and in transitional housing, coordinated, when reasonably feasible, with already existing homeless census projects including those funded in part by the United States department of housing and urban development under the McKinney-Vento homeless assistance program. The department shall determine, in consultation with local governments, the data to be collected.

All personal information collected in the census is confidential, and the department and each local government shall take all necessary steps to protect the identity and confidentiality of each person counted.

The department and each local government are prohibited from disclosing any personally identifying information about any homeless individual when there is reason to believe or evidence indicating that the homeless individual is an adult or minor victim of domestic violence, dating violence, sexual assault, or stalking or is the parent or guardian of a child victim of domestic violence, dating violence, sexual assault, or stalking; or revealing other confidential information regarding HIV/AIDS status, as found in RCW 70.24.105. The department and each local government shall not ask any homeless housing provider to disclose personally identifying information about any homeless individuals when the providers implementing those programs have reason to believe or evidence indicating that those clients are adult or minor victims of domestic violence, dating violence, sexual assault, or stalking or are the parents or guardians of child victims of domestic violence, dating violence, sexual assault, or stalking. Summary data for the provider's facility or program may be substituted.

The Washington homeless census shall be conducted annually on a schedule created by the department. The department shall make summary data by county available to the public each year. This data, and its analysis, shall be included in the department's annual updated homeless housing program strategic plan.

Based on the annual census and provider information from the local government plans, the department shall, by the end of year four, implement an online information and referral system to enable local governments and providers to identify available housing for a homeless person. The department shall work with local governments and their providers to develop a capacity for continuous case management to assist homeless persons.

By the end of year four, the department shall implement an organizational quality management system.

NEW SECTION. **Sec. 7.** (1) Six months after the first Washington homeless census, the department shall, in consultation

with the interagency council on homelessness and the affordable housing advisory board, prepare and publish a ten-year homeless housing strategic plan which shall outline statewide goals and performance measures and shall be coordinated with the plan for homeless families with children required under RCW 43.63A.650. To guide local governments in preparation of their first local homeless housing plans due December 31, 2005, the department shall issue by October 15, 2005, temporary guidelines consistent with this chapter and including the best available data on each community's homeless population. Local governments' ten-year homeless housing plans shall not be substantially inconsistent with the goals and program recommendations of the temporary guidelines and, when amended after 2005, the state strategic plan.

(2) Program outcomes and performance measures and goals shall be created by the department and reflected in the department's homeless housing strategic plan as well as interim goals against which state and local governments' performance may be measured, including:

(a) By the end of year one, completion of the first census as described in section 6 of this act;

(b) By the end of each subsequent year, goals common to all local programs which are measurable and the achievement of which would move that community toward housing its homeless population; and

(c) By July 1, 2015, reduction of the homeless population statewide and in each county by fifty percent.

(3) The department shall develop a consistent statewide data gathering instrument to monitor the performance of cities and counties receiving grants in order to determine compliance with the terms and conditions set forth in the grant application or required by the department.

The department shall, in consultation with the interagency council on homelessness and the affordable housing advisory board, report annually to the governor and the appropriate committees of the legislature an assessment of the state's performance in furthering the goals of the state ten-year homeless housing strategic plan and the performance of each participating local government in creating and executing a local homeless housing plan which meets the requirements of this chapter. The annual report may include performance measures such as:

(a) The reduction in the number of homeless individuals and families from the initial count of homeless persons;

(b) The number of new units available and affordable for homeless families by housing type;

(c) The number of homeless individuals identified who are not offered suitable housing within thirty days of their request or identification as homeless;

(d) The number of households at risk of losing housing who maintain it due to a preventive intervention;

(e) The transition time from homelessness to permanent housing;

(f) The cost per person housed at each level of the housing continuum;

(g) The ability to successfully collect data and report performance;

(h) The extent of collaboration and coordination among public bodies, as well as community stakeholders, and the level of community support and participation;

(i) The quality and safety of housing provided; and

(j) The effectiveness of outreach to homeless persons, and their satisfaction with the program.

(4) Based on the performance of local homeless housing programs in meeting their interim goals, on general population changes and on changes in the homeless population recorded in the annual census, the department may revise the performance measures and goals of the state homeless housing strategic plan, set goals for years following the initial ten-year period, and recommend changes in local governments' plans.

NEW SECTION. **Sec. 8.** (1) Each local homeless housing task force shall prepare and recommend to its local government legislative authority a ten-year homeless housing plan for its jurisdictional area which shall be not inconsistent with the department's statewide temporary guidelines, for the December 31, 2005, plan, and thereafter the department's ten-year homeless housing strategic plan and which shall be aimed at eliminating homelessness, with a minimum goal of reducing homelessness by fifty percent by July 1, 2015. The local government may amend the proposed local plan and shall adopt a plan by December 31, 2005. Performance in meeting the goals of this local plan shall be assessed annually in terms of the performance measures published by the department. Local plans may include specific local performance measures adopted by the local government legislative authority, and may include recommendations for any state legislation needed to meet the state or local plan goals.

(2) Eligible activities under the local plans include:

(a) Rental and furnishing of dwelling units for the use of homeless persons;

(b) Costs of developing affordable housing for homeless persons, and services for formerly homeless individuals and families residing in transitional housing or permanent housing and still at risk of homelessness;

(c) Operating subsidies for transitional housing or permanent housing serving formerly homeless families or individuals;

(d) Services to prevent homelessness, such as emergency eviction prevention programs including temporary rental subsidies to prevent homelessness;

(e) Temporary services to assist persons leaving state institutions and other state programs to prevent them from becoming or remaining homeless;

(f) Outreach services for homeless individuals and families;

(g) Development and management of local homeless plans including homeless census data collection; identification of goals, performance measures, strategies, and costs and evaluation of progress towards established goals;

(h) Rental vouchers payable to landlords for persons who are homeless or below thirty percent of the median income or in immediate danger of becoming homeless; and

(i) Other activities to reduce and prevent homelessness as identified for funding in the local plan.

NEW SECTION. **Sec. 9.** A new section is added to chapter 36.22 RCW to read as follows:

(1) In addition to the surcharge authorized in RCW 36.22.178, and except as provided in subsection (2) of this section, an additional surcharge of ten dollars shall be charged by the county auditor for each document recorded, which will be in addition to any other charge allowed by law. The funds collected pursuant to this section are to be distributed and used as follows:

(a) The auditor shall retain two percent for collection of the fee, and of the remainder shall remit sixty percent to the county to be deposited into a fund that must be used by the county and its cities and towns to accomplish the purposes of this act, six percent of which may be used by the county for administrative costs related to its homeless housing plan, and the remainder for programs which directly accomplish the goals of the county's homeless housing plan,

except that for each city in the county which elects as authorized in section 12 of this act to operate its own homeless housing program, a percentage of the surcharge assessed under this section equal to the percentage of the city's local portion of the real estate excise tax collected by the county shall be transmitted at least quarterly to the city treasurer, without any deduction for county administrative costs, for use by the city for program costs which directly contribute to the goals of the city's homeless housing plan; of the funds received by the city, it may use six percent for administrative costs for its homeless housing program.

(b) The auditor shall remit the remaining funds to the state treasurer for deposit in the homeless housing account. The department may use twelve and one-half percent of this amount for administration of the program established in section 5 of this act, including the costs of creating the statewide homeless housing strategic plan, measuring performance, providing technical assistance to local governments, and managing the homeless housing grant program. The remaining eighty-seven and one-half percent is to be distributed by the department to local governments through the homeless housing grant program.

(2) The surcharge imposed in this section does not apply to assignments or substitutions of previously recorded deeds of trust.

NEW SECTION. **Sec. 10.** The homeless housing account is created in the custody of the state treasurer. The state's portion of the surcharge established in section 9 of this act must be deposited in the account. Expenditures from the account may be used only for the homeless housing program as described in this chapter. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. **Sec. 11.** (1) During each calendar year in which moneys from the homeless housing account are available for use by the department for the homeless housing grant program, the department shall announce to all Washington counties, participating cities, and through major media throughout the state, a grant application period of at least ninety days' duration. This announcement will be made as often as the director deems appropriate for proper utilization of resources. The department shall then promptly grant as many applications as will utilize available funds, less appropriate administrative costs of the department as described in section 9 of this act.

(2) The department will develop, with advice and input from the affordable housing advisory board established in RCW 43.185B.020, criteria to evaluate grant applications.

(3) The department may approve applications only if they are consistent with the local and state homeless housing program strategic plans. The department may give preference to applications based on some or all of the following criteria:

(a) The total homeless population in the applicant local government service area, as reported by the most recent annual Washington homeless census;

(b) Current local expenditures to provide housing for the homeless and to address the underlying causes of homelessness as described in section 1 of this act;

(c) Local government and private contributions pledged to the program in the form of matching funds, property, infrastructure improvements, and other contributions; and the degree of leveraging of other funds from local government or private sources for the program for which funds are being requested, to include recipient contributions to total project costs, including allied contributions from other sources such as professional, craft and trade services, and lender interest rate subsidies;

(d) Construction projects or rehabilitation that will serve homeless individuals or families for a period of at least twenty-five years;

(e) Projects which demonstrate serving homeless populations with the greatest needs, including projects that serve special needs populations;

(f) The degree to which the applicant project represents a collaboration between local governments, nonprofit community-based organizations, local and state agencies, and the private sector, especially through its integration with the coordinated and comprehensive plan for homeless families with children required under RCW 43.63A.650;

(g) The cooperation of the local government in the annual Washington homeless census project;

(h) The commitment of the local government and any subcontracting local governments, nonprofit organizations, and for-profit entities to employ a diverse work force;

(i) The extent, if any, that the local homeless population is disproportionate to the revenues collected under this chapter, RCW 36.22.178, and section 9 of this act; and

(j) Other elements shown by the applicant to be directly related to the goal and the department's state strategic plan.

NEW SECTION. **Sec. 12.** (1) Only a local government is eligible to receive a homeless housing grant from the homeless housing account. Any city may assert responsibility for homeless housing within its borders if it so chooses, by forwarding a resolution to the legislative authority of the county stating its intention and its commitment to operate a separate homeless housing program. The city shall then receive a percentage of the surcharge assessed under section 9 of this act equal to the percentage of the city's local portion of the real estate excise tax collected by the county. A participating city may also then apply separately for homeless housing program grants. A city choosing to operate a separate homeless housing program shall be responsible for complying with all of the same requirements as counties and shall adopt a local homeless housing plan meeting the requirements of this chapter for county local plans. However, the city may by resolution of its legislative authority accept the county's homeless housing task force as its own and based on that task force's recommendations adopt a homeless housing plan specific to the city.

(2) Local governments applying for homeless housing funds may subcontract with any other local government, housing authority, community action agency or other nonprofit organization for the execution of programs contributing to the overall goal of ending homelessness within a defined service area. All subcontracts shall be consistent with the local homeless housing plan adopted by the legislative authority of the local government, time limited, and filed with the department and shall have specific performance terms. While a local government has the authority to subcontract with other entities, the local government continues to maintain the ultimate responsibility for the homeless housing program within its borders.

(3) A county may decline to participate in the program authorized in this chapter by forwarding to the department a resolution adopted by the county legislative authority stating the intention not to participate. A copy of the resolution shall also be transmitted to the county auditor and treasurer. If such a resolution is adopted, all of the funds otherwise due to the county under section 10 of this act shall be remitted monthly to the state treasurer for

deposit in the homeless housing account, without any reduction by the county for collecting or administering the funds. Upon receipt of the resolution, the department shall promptly begin to identify and contract with one or more entities eligible under this section to create and execute a local homeless housing plan for the county meeting the requirements of this chapter. The department shall expend all of the funds received from the county under this subsection to carry out the purposes of this act in the county, provided that the department may retain six percent of these funds to offset the cost of managing the county's program.

(4) A resolution by the county declining to participate in the program shall have no effect on the ability of each city in the county to assert its right to manage its own program under this chapter, and the county shall monthly transmit to the city the funds due under this chapter.

NEW SECTION. **Sec. 13.** The department shall allocate grant moneys from the homeless housing account to finance in whole or in part programs and projects in approved local homeless housing plans to assist homeless individuals and families gain access to adequate housing, prevent at-risk individuals from becoming homeless, address the root causes of homelessness, track and report on homeless-related data, and facilitate the movement of homeless or formerly homeless individuals along the housing continuum toward more stable and independent housing. The department may issue criteria or guidelines to guide local governments in the application process.

NEW SECTION. **Sec. 14.** The department shall provide technical assistance to any participating local government that requests such assistance. Technical assistance activities may include:

(1) Assisting local governments to identify appropriate parties to participate on local homeless housing task forces;

(2) Assisting local governments to identify appropriate service providers with which the local governments may subcontract for service provision and development activities, when necessary;

(3) Assisting local governments to implement or expand homeless census programs to meet homeless housing program requirements;

(4) Assisting in the identification of "best practices" from other areas;

(5) Assisting in identifying additional funding sources for specific projects; and

(6) Training local government and subcontractor staff.

NEW SECTION. **Sec. 15.** The department shall establish a uniform process for participating local governments to report progress toward reducing homelessness and meeting locally established goals.

NEW SECTION. **Sec. 16.** The department may adopt such rules as may be necessary to effect the purposes of this chapter.

NEW SECTION. **Sec. 17.** The department shall ensure that the state's interest is protected upon the development, use, sale, or change of use of projects constructed, acquired, or financed in whole or in part through the homeless housing grant program. These policies may include, but are not limited to: (1) Requiring a share of the appreciation in the project in proportion to the state's contribution to the project, or (2) requiring a lump sum repayment of the grant upon the sale or change of use of the project.

Sec. 18. RCW 36.22.178 and 2002 c 294 s 2 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a surcharge of ten 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. The ((~~auditor~~)) county may retain up to five percent of these funds collected ((~~to administer~~)) solely for the collection, administration, and local distribution of these funds. Of the remaining funds, forty percent of the revenue generated through this surcharge will be transmitted monthly to the state treasurer who will deposit the funds into the Washington housing trust account. The office of community development of the department of community, trade, and economic development will develop guidelines for the use of these funds to support building operation and maintenance costs of housing projects or units within housing projects that are affordable to extremely low-income persons with incomes at or below thirty percent of the area median income, and that require a supplement to rent income to cover ongoing operating expenses. ((~~Sixty percent of the revenue~~)) All of the remaining funds generated by this surcharge will be retained by the county and be deposited into a fund that must be used by the county and its cities and towns for housing projects or units within housing projects that are affordable to very low-income persons with incomes at or below fifty percent of the area median income. The portion of the surcharge retained by a county shall be allocated to very low-income housing projects or units within such housing projects in the county and the cities within a county according to an interlocal agreement between the county and the cities within the county, consistent with countywide and local housing needs and policies. The funds generated with this surcharge shall not be used for construction of new housing if at any time the vacancy rate for available low-income housing within the county rises above ten percent. The vacancy rate for each county shall be developed using the state low-income vacancy rate standard developed under subsection (3) of this section. ((~~Permissible~~)) Uses of these local funds are limited to:

(a) Acquisition, construction, or rehabilitation of housing projects or units within housing projects that are affordable to very low-income persons with incomes at or below fifty percent of the area median income;

(b) Supporting building operation and maintenance costs of housing projects or units within housing projects ((~~built with~~)) eligible to receive housing trust funds, that are affordable to very low-income persons with incomes at or below fifty percent of the area median income, and that require a supplement to rent income to cover ongoing operating expenses;

(c) Rental assistance vouchers for housing projects or units within housing projects that are affordable to very low-income persons with incomes at or below fifty percent of the area median income, to be administered by a local public housing authority or other local organization that has an existing rental assistance voucher program, consistent with the United States department of housing and urban development's section 8 rental assistance voucher program standards; and

(d) Operating costs for emergency shelters and licensed overnight youth shelters.

(2) The surcharge imposed in this section does not apply to assignments or substitutions of previously recorded deeds of trust.

(3) The real estate research center at Washington State University shall develop a vacancy rate standard for low-income housing in the state as described in RCW 18.85.540(1)(i).

Sec. 19. RCW 36.18.010 and 2002 c 294 s 3 are each amended to read as follows:

County auditors or recording officers shall collect the following fees for their official services:

For recording instruments, for the first page eight and one-half by fourteen inches or less, five dollars; for each additional page eight and one-half by fourteen inches or less, one dollar. The fee for recording multiple transactions contained in one instrument will be calculated for each transaction requiring separate indexing as required under RCW 65.04.050 as follows: The fee for each title or transaction is the same fee as the first page of any additional recorded document; the fee for additional pages is the same fee as for any additional pages for any recorded document; the fee for the additional pages may be collected only once and may not be collected for each title or transaction;

For preparing and certifying copies, for the first page eight and one-half by fourteen inches or less, three dollars; for each additional page eight and one-half by fourteen inches or less, one dollar;

For preparing noncertified copies, for each page eight and one-half by fourteen inches or less, one dollar;

For administering an oath or taking an affidavit, with or without seal, two dollars;

For issuing a marriage license, eight dollars, (this fee includes taking necessary affidavits, filing returns, indexing, and transmittal of a record of the marriage to the state registrar of vital statistics) plus an additional five-dollar fee for use and support of the prevention of child abuse and neglect activities to be transmitted monthly to the state treasurer and deposited in the state general fund plus an additional ten-dollar fee to be transmitted monthly to the state treasurer and deposited in the state general fund. The legislature intends to appropriate an amount at least equal to the revenue generated by this fee for the purposes of the displaced homemaker act, chapter 28B.04 RCW;

For searching records per hour, eight dollars;

For recording plats, fifty cents for each lot except cemetery plats for which the charge shall be twenty-five cents per lot; also one dollar for each acknowledgment, dedication, and description: PROVIDED, That there shall be a minimum fee of twenty-five dollars per plat;

For recording of miscellaneous records not listed above, for the first page eight and one-half by fourteen inches or less, five dollars; for each additional page eight and one-half by fourteen inches or less, one dollar;

For modernization and improvement of the recording and indexing system, a surcharge as provided in RCW 36.22.170((~~.~~));

For recording an emergency nonstandard document as provided in RCW 65.04.047, fifty dollars, in addition to all other applicable recording fees((~~.~~));

For recording instruments, a surcharge as provided in RCW 36.22.178; and

For recording instruments, except for documents recording a birth, marriage, divorce, or death or any documents otherwise exempted from a recording fee under state law, a surcharge as provided in section 9 of this act.

NEW SECTION. **Sec. 20.** The department of social and health services shall exempt payments to individuals provided under this chapter when determining eligibility for public assistance.

NEW SECTION. **Sec. 21.** This chapter does not require either the department or any local government to expend any funds to accomplish the goals of this chapter other than the revenues authorized in this act. However, neither the department nor any local government may use any funds authorized in this act to supplant or reduce any existing expenditures of public money for the reduction or prevention of homelessness or services for homeless persons.

Sec. 22. RCW 43.185B.005 and 1993 c 478 s 1 are each amended to read as follows:

(1) The legislature finds that:

(a) Housing is of vital statewide importance to the health, safety, and welfare of the residents of the state;

(b) Reducing homelessness and moving individuals and families toward stable, affordable housing is of vital statewide importance;

(c) Safe, affordable housing is an essential factor in stabilizing communities;

(((~~c~~))) (d) Residents must have a choice of housing opportunities within the community where they choose to live;

(((~~d~~))) (e) Housing markets are linked to a healthy economy and can contribute to the state's economy;

(((~~e~~))) (f) Land supply is a major contributor to the cost of housing;

(((~~f~~))) (g) Housing must be an integral component of any comprehensive community and economic development strategy;

(((~~g~~))) (h) State and local government must continue working cooperatively toward the enhancement of increased housing units by reviewing, updating, and removing conflicting regulatory language;

(((~~h~~))) (i) State and local government should work together in developing creative ways to reduce the shortage of housing;

(((~~i~~))) (j) The lack of a coordinated state housing policy inhibits the effective delivery of housing for some of the state's most vulnerable citizens and those with limited incomes; and

(((~~j~~))) (k) It is in the public interest to adopt a statement of housing policy objectives.

(2) The legislature declares that the purposes of the Washington housing policy act are to:

(a) Provide policy direction to the public and private sectors in their attempt to meet the shelter needs of Washington residents;

(b) Reevaluate housing and housing-related programs and policies in order to ensure proper coordination of those programs and policies to meet the housing needs of Washington residents;

(c) Improve the delivery of state services and assistance to very low-income and low-income households and special needs populations;

(d) Strengthen partnerships among all levels of government, and the public and private sectors, including for-profit and nonprofit organizations, in the production and operation of housing to targeted populations including low-income and moderate-income households;

(e) Increase the supply of housing for persons with special needs;

(f) Encourage collaborative planning with social service providers;

(g) Encourage financial institutions to increase residential mortgage lending; and

(h) Coordinate housing into comprehensive community and economic development strategies at the state and local level.

Sec. 23. RCW 43.185B.009 and 1993 c 478 s 3 are each amended to read as follows:

The objectives of the Washington housing policy act shall be to attain the state's goal of a decent home in a healthy, safe environment for every resident of the state by strengthening public and private institutions that are able to:

(1) Develop an adequate and affordable supply of housing for all economic segments of the population, including the destitute;

(2) Identify and reduce the causal factors preventing the state from reaching its goal;

(3) Assist very low-income and special needs households who cannot obtain affordable, safe, and adequate housing in the private market;

(((~~(3)~~))) (4) Encourage and maintain home ownership opportunities;

(((~~(4)~~))) (5) Reduce life-cycle housing costs while preserving public health and safety;

(((~~(5)~~))) (6) Preserve the supply of existing affordable housing;

(((~~(6)~~))) (7) Provide housing for special needs populations;

(((~~(7)~~))) (8) Ensure fair and equal access to the housing market;

(((~~(8)~~))) (9) Increase the availability of mortgage credit at low interest rates; and

(((~~(9)~~))) (10) Coordinate and be consistent with the goals, objectives, and required housing element of the comprehensive plan in the state's growth management act in RCW 36.70A.070.

NEW SECTION. **Sec. 24.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. **Sec. 25.** This act takes effect August 1, 2005.

NEW SECTION. **Sec. 26.** Sections 1 through 8, 10 through 17, 20, 21, 24, and 25 of this act constitute a new chapter in Title 43 RCW."

On page 1, line 2 of the title, after "Washington;" strike the remainder of the title and insert "amending RCW 36.22.178, 36.18.010, 43.185B.005, and 43.185B.009; adding a new section to chapter 36.22 RCW; adding a new chapter to Title 43 RCW; and providing an effective date."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2163 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representative Miloscia spoke in favor the passage of the bill.

Representative Holmquist spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed Second Substitute House Bill No. 2163 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 2163, as amended by the Senate and the bill passed the House by the following vote: Yeas - 50, Nays - 48, Absent - 0, Excused - 0.

Voting yea: Representatives Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Sells, Simpson, Sommers, Sullivan, B., Sullivan, P., Upthegrove, Wallace, Williams, Wood and Mr. Speaker - 50.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Campbell, Chandler, Clements, Condotta, Cox, Crouse, Curtis, DeBolt, Dunn, Ericksen, Green, Haler, Hankins, Hinkle, Holmquist, Jarrett, Kilmer, Kretz, Kristiansen, McCune, McDonald, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Serben, Shabro, Skinner, Springer, Strow, Sump, Takko, Talcott, Tom, Walsh and Woods - 48.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2163, as amended by the Senate having received the constitutional majority, was declared passed.

HOUSE AMENDMENT TO SENATE BILL

April 18, 2005

Mr. Speaker:

The Senate refuses to concur in the House amendment to SUBSTITUTE SENATE BILL NO. 5708 and asks the House to recede therefrom.

Thomas Hoemann, Secretary

There being no objection, the House receded from its position and passed to final passage SUBSTITUTE SENATE BILL NO. 5708 without the House's amendments.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5708.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5708, without House amendment and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0, Not Voting - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell,

Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

SUBSTITUTE SENATE BILL NO. 5708, without House amendment having received the constitutional majority, was declared passed.

There being no objection, the House reverted to the sixth order of business.

SECOND READING

HOUSE BILL NO. 1019, By Representatives Campbell, Kirby, McCune, Clements, Wood, Hudgins, Simpson, Green, Morrell, Conway, P. Sullivan, Linville, B. Sullivan, McDonald, Lovick, Dunn, Chase and Ormsby

Providing a property tax exemption to veterans with severe disabilities.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Campbell and McIntire spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of House Bill No. 1019.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1019 and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

HOUSE BILL NO. 1019, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1241, By Representatives Fromhold, Curtis, Moeller, Wallace, Sommers, McIntire and Murray

Modifying vehicle licensing and registration penalties.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Transportation was not adopted. (For committee amendment, see Journal, 57th Day, March 7, 2005.)

With the consent of the House, amendment (218) was withdrawn.

Representative Wallace moved the adoption of amendment (582):

On page 2, line 13, after "year" strike "confinement"

On page 2, line 17, after "year" strike "confinement"

On page 4, beginning on line 33, after "punishable" strike all material through "payment of" on line 34, and insert "only by"

Representatives Wallace and Woods spoke in favor of the adoption of the amendment.

The amendment was adopted. The bill was ordered engrossed.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Fromhold and Curtis spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed House Bill No. 1241.

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ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 1241 and the bill passed the House by the following vote: Yeas - 95, Nays - 3, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schual-Berke, Sells, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Williams, Wood, Woods and Mr. Speaker - 95.

Voting nay: Representatives Schindler, Serben and Walsh - 3.

ENGROSSED HOUSE BILL NO. 1241, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1485, By Representatives Hunter, Jarrett, Wallace, Tom, Fromhold, McDermott, Haigh, Kenney and P. Sullivan

Regarding the school bus bid process.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Hunter and Anderson spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of House Bill No. 1485.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1485 and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

HOUSE BILL NO. 1485, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 2289, By Representatives Sommers and Cody

Relating to hospital efficiencies.

The bill was read the second time.

There being no objection, Substitute House Bill No. 2289 was substituted for House Bill No. 2289 and the substitute bill was placed on the second reading calendar.

SUBSTITUTE HOUSE BILL NO. 2289 was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representative Cody spoke in favor of passage of the bill.

Representative Alexander spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute House Bill No. 2289.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2289 and the bill passed the House by the following vote: Yeas - 55, Nays - 43, Absent - 0, Excused - 0.

Voting yea: Representatives Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Sells, Simpson, Sommers, Springer, Sullivan, B.,

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Sullivan, P., Takko, Upthegrove, Wallace, Williams, Wood and Mr. Speaker - 55.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Campbell, Chandler, Clements, Condotta, Cox, Crouse, Curtis, DeBolt, Dunn, Ericksen, Haler, Hankins, Hinkle, Holmquist, Jarrett, Kretz, Kristiansen, McCune, McDonald, Newhouse, Nixon, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Serben, Shabro, Skinner, Strow, Sump, Talcott, Tom, Walsh and Woods - 43.

SUBSTITUTE HOUSE BILL NO. 2289, having received the necessary constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 13, 2005

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1635, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that ambulance and emergency medical services are essential services and the availability of these services is vital to preserving and promoting the health, safety, and welfare of people in local communities throughout the state. All persons, businesses, and industries benefit from the availability of ambulance and emergency medical services, and survival rates can be increased when these services are available, adequately funded, and appropriately regulated. It is the legislature's intent to explicitly recognize local jurisdictions' ability and authority to collect utility service charges to fund ambulance and emergency medical service systems that are based, at least in some part, upon a charge for the availability of these services.

Sec. 2. RCW 35.21.766 and 2004 c 129 s 34 are each amended to read as follows:

(1) Whenever a regional fire protection service authority ((~~or the legislative authority of any city or town~~)) determines that the fire protection jurisdictions that are members of the authority ((~~or the city or town or a substantial portion of the city or town is~~)) are not adequately served by existing private ambulance service, the governing board of the authority may by resolution((~~, or the legislative authority of the city or town may by appropriate legislation,~~)) provide for the establishment of a system of ambulance service to be operated by the authority as a public utility ((~~of the city or town, or~~)) operated by contract after a call for bids.

(2) The legislative authority of any city or town may establish an ambulance service to be operated as a public utility. However, the legislative authority of the city or town shall not provide for the establishment of an ambulance service utility that would compete with any existing private ambulance service, unless the legislative authority of the city or town determines that the city or town, or a substantial portion of the city or town, is not adequately served by an existing private ambulance service. In determining the adequacy of existing ambulance service, the legislative authority of the city or town shall determine if the service is meeting relevant performance standards. Before making any adequacy determination, performance standards shall be established by the city or town through adoption of a resolution or ordinance by its legislative body, which shall first hold one or more public hearings on the subject of proposed performance standards, or any amendment thereto, after giving at least fourteen days' notice of the time and place by publication in a newspaper of general circulation in the city and individual written notice to any private ambulance company registered with the jurisdiction as operating an ambulance service in the city or town, and to the department of health. Performance standards adopted by any city or town shall be no less stringent than existing standards adopted by the department of health or any other agency with applicable jurisdiction, and may include, but not be limited to, standards regarding response times, equipment, personnel, training, communication, dispatch, reporting, and other relevant requirements and expectations.

(3) The city or town legislative authority is authorized to set and collect rates and charges in an amount sufficient to regulate, operate, and maintain an ambulance utility. Prior to setting such rates and charges, the legislative authority must determine, through a cost-of-service study, the total cost necessary to regulate, operate, and maintain the ambulance utility. Total costs shall not include capital cost for the construction, major renovation, or major repair of the physical plant. For purposes of establishing and setting rates and charges under this section, costs shall be reduced by any revenues collected and described in subsection (5)(a) through (c) of this section. Once the legislative authority determines the total costs, the legislative authority shall then identify that portion of the total costs that are attributable to the availability of the ambulance service and that portion of the total costs that are attributable to the demand placed on the ambulance utility.

(a) Availability costs are those costs attributable to the basic infrastructure needed to respond to a single call for service within the utility's response criteria. Availability costs may include costs for dispatch, labor, training of personnel, equipment, patient care supplies, and maintenance of equipment.

(b) Demand costs are those costs that are attributable to the burden placed on the ambulance service by individual calls for ambulance service. Demand costs shall include costs related to frequency of calls, distances from hospitals, and other factors identified in the cost-of-service study conducted to assess burdens imposed on the ambulance utility.

(c) Beginning on the effective date of this act, the rate attributable to costs for availability described under (a) of this subsection shall be uniformly applied across user classifications within the utility.

(d) Beginning on the effective date of this act, the rate attributable to costs for demand, described under (b) of this subsection, shall be established and billed to each utility user classification based on each user classification's burden on the ambulance utility.

(e) The fee charged by the utility shall reflect a combination of the availability cost and the demand cost.

(4)(a) Except as provided in (b) of this subsection, the combined rates charged shall reflect an exemption for persons who are medicaid eligible and who reside in a nursing facility, boarding home, adult family home, or receive in home services. The combined rates charged may reflect an exemption or reduction for designated classes consistent with Article VIII, section 7 of the state Constitution. The amounts of exemption or reduction shall be a general expense of the utility, and designated as an availability cost, to be spread uniformly across the utility user classifications.

(b) For cities with a population less than 2,500 that established an ambulance utility before May 6, 2004, the combined rates charged

may reflect an exemption or reduction for persons who are medicaid eligible, and for designated classes consistent with Article VIII, section 7 of the state Constitution.

(5) In each city or town operating an ambulance utility pursuant to this section:

(a) The legislative authority must continue to allocate at least fifty percent of the total amount of general fund revenues expended, as of May 6, 2004, toward the total costs necessary to regulate, operate, and maintain the ambulance utility.

However, cities or towns that operated an ambulance service as a public utility as of May 6, 2004, and commingled general fund dollars and ambulance service utility dollars, may reasonably estimate that portion of general fund dollars that were, as of that date, applied toward the operation of the ambulance service utility, and at least fifty percent of such estimated amount must then continue to be applied toward the total cost necessary to regulate, operate, and maintain the ambulance utility.

(b) The legislative authority must allocate available emergency medical service levy funds, in an amount proportionate to the percentage of the ambulance services costs to the total combined operating costs for emergency medical services and ambulance services, towards the total costs necessary to regulate, operate, and maintain the ambulance utility.

(c) The legislative authority must allocate all revenues received through direct billing to the individual user of the ambulance service to the demand-related costs under subsection (3)(b) of this section.

(d) The total revenue generated by the rates and charges shall not exceed the total costs necessary to regulate, operate, and maintain an ambulance utility.

(e) Revenues generated by the rates and charges must be deposited in a separate fund or funds and be used only for the purpose of paying for the cost of regulating, maintaining, and operating the ambulance utility.

(6) Ambulance service rates charged pursuant to this section do not constitute taxes or charges under RCW 82.02.050 through 82.02.090, or RCW 35.21.768, or charges otherwise prohibited by law.

NEW SECTION. **Sec. 3.** The joint legislative audit and review committee shall study and review ambulance utilities established and operated by cities under this act. The committee shall examine, but not be limited to, the following factors: the number and operational status of utilities established under this act; whether the utility rate structures and user classifications used by cities were established in accordance with generally accepted utility rate-making practices; and rates charged by the utility to the user classifications. The committee shall provide a final report on this review by December, 2007.

On page 1, at the beginning of line 2 of the title, strike the remainder of the title and insert "amending RCW 35.21.766; and creating new sections."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House refused to concur in the Senate Amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1635 and asked the Senate to recede therefrom.

SENATE AMENDMENTS TO HOUSE BILL

April 11, 2005

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1903, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature has and continues to recognize the vital importance of economic development to the health and prosperity of Washington state as indicated in RCW 43.160.010, 43.155.070(4)(g), 43.163.005, and 43.168.010. The legislature finds that current economic development programs and funding, which are primarily low-interest loan programs, can be enhanced by creating a loan and grant program to assist political subdivisions with public infrastructure projects that directly stimulate community and economic development by supporting the creation of new jobs or the retention of existing jobs.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.160 RCW to read as follows:

(1) The job development fund program is created to provide loans and grants to political subdivisions of the state for public infrastructure projects that will stimulate job creation or assist in job retention. Grants may be awarded only when, and to the extent that, a loan is not reasonably possible, given the limited resources of the political subdivision and the board has made a finding that financial circumstances require grant assistance to enable the project to move forward. The program is to be administered by the board. The board shall establish a competitive process to request and prioritize proposals and make loan and grant awards.

(2) For the purposes of this act:

(a) "Public infrastructure projects" has the same meaning as "public facilities" as defined in RCW 43.160.020(11); and

(b) "Political subdivision" means a county, city, port district, or other special purpose district, excluding a school district.

(3) The board shall conduct a statewide request for project applications from political subdivisions. The board shall apply the following criteria for evaluation and ranking of applications:

(a) The relative benefits provided to the community by the jobs the project would create, including, but not limited to: (i) The total number of jobs; (ii) the total number of full-time, family wage jobs; (iii) the unemployment rate in the area; and (iv) the increase in employment in comparison to total community population;

(b) The present level of economic activity in the community and the existing local financial capacity to increase economic activity in the community;

(c) The rate of return of the state's investment, that includes the expected increase in state and local tax revenues associated with the project;

(d) The lack of another timely source of funding available to finance the project which would likely prevent the proposed community or economic development, absent the financing available under this act;

(e) The ability of the project to improve the viability of existing business entities in the project area;

(f) Whether or not the project is a partnership of multiple jurisdictions;

(g) Demonstration that the requested assistance will directly stimulate community and economic development by facilitating the creation of new jobs or the retention of existing jobs; and

(h) The availability of existing assets that applicants may apply to projects.

(4) Job development fund program loans and grants may only be awarded to those applicants that have entered into or expect to enter into a contract with a private developer relating to private investment that will result in the creation or retention of jobs upon completion of the project. Job development fund program loans and grants shall not be provided for any project where:

(a) The funds will not be used within the jurisdiction or jurisdictions of the applicants; or

(b) Evidence exists that the project would result in a development or expansion that would displace existing jobs in any other community in the state.

(5) The board shall, with the joint legislative audit and review committee, develop performance criteria for each loan and grant and evaluation criteria to be used to evaluate both how well successful applicants met the community and economic development objectives stated in their applications, and how well the job development fund program performed in creating and retaining jobs.

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.160 RCW to read as follows:

The maximum loan or grant from the job development fund for any one project is ten million dollars. Grant and loan assistance from the job development fund may not exceed thirty-three percent of the total cost of the project. The nonstate portion of the total project cost may include cash, the value of real property when acquired solely for the purpose of the project, and in-kind contributions.

Sec. 4. RCW 43.155.050 and 2001 c 131 s 2 are each amended to read as follows:

(1) The public works assistance account is hereby established in the state treasury. Money may be placed in the public works assistance account from the proceeds of bonds when authorized by the legislature or from any other lawful source. Money in the public works assistance account shall be used to make loans and to give financial guarantees to local governments for public works projects. Moneys in the account may also be appropriated to provide for state match requirements under federal law for projects and activities conducted and financed by the board under the drinking water assistance account. Not more than fifteen percent of the biennial capital budget appropriation to the public works board from this account may be expended or obligated for preconstruction loans, emergency loans, or loans for capital facility planning under this chapter; of this amount, not more than ten percent of the biennial capital budget appropriation may be expended for emergency loans and not more than one percent of the biennial capital budget appropriation may be expended for capital facility planning loans.

(2) The job development fund is hereby established in the state treasury. Money from the public works assistance account may be placed in the job development fund only after appropriation. Money in the job development fund may be used solely for job development fund program grants or loans and administrative expenses related to the administration of the job development fund program created in section 2 of this act. Moneys in the job development fund may be spent only after appropriation. The board shall prepare a list of proposed projects that totals fifty million dollars as part of the department's 2007-09 biennial budget request.

NEW SECTION. **Sec. 5.** (1) The joint legislative audit and review committee shall conduct an inventory of all state public infrastructure programs and funds. The inventory shall identify: The public infrastructure state programs and funds and the purposes each serve; how the program or fund is implemented; the types of public infrastructure projects supported by the program or fund; the dollar amount of the projects funded by each program or fund; the balance of a fund, if applicable; and the geographic distribution of projects supported by a program or fund. Where applicable, the inventory shall identify overlaps or gaps in types of public infrastructure projects supported through state programs or funds. Where appropriate, the inventory shall evaluate the return on investment for economic development infrastructure programs. The inventory shall be delivered to the appropriate committees of the legislature by December 1, 2005.

(2) By September 1, 2010, the joint legislative audit and review committee shall submit a report on the outcomes of the job development fund program to the appropriate committees of the legislature. The report shall apply the performance and evaluation criteria developed by the community economic revitalization board and the committee and shall include a project by project review detailing how the funds were used and whether the performance measures were met. The report shall also include impacts to the availability of low-interest and interest-free loans to local governments under RCW 43.155.055, 43.155.060, 43.155.065, and 43.155.068, resulting from appropriations to the job development fund. Information in the report shall include, but not be limited to:

(a) The total funds appropriated from the public works assistance account to the job development account;

(b) The ratio of loan requests submitted to the public works board as compared to actual money available for loans in the public works assistance account since the effective date of this act;

(c) The total amount that would have been available for loans from the public works assistance account had this act not taken effect;

(d) Identification of specific loan requests that would have qualified for funding under chapter 43.155 RCW had money been available in the public works assistance account;

(e) Assessment of increased costs for otherwise qualifying projects where local governments were compelled to seek alternate funding sources.

NEW SECTION. **Sec. 6.** This act expires June 30, 2011.

NEW SECTION. **Sec. 7.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

On page 1, line 1 of the title, after "fund;" strike the remainder of the title and insert "amending RCW 43.155.050; adding new sections to chapter 43.160 RCW; creating new sections; and providing an expiration date."

There being no objection, the House refused to concur in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1903 and asked the Senate for a conference thereon.

SENATE AMENDMENTS TO HOUSE BILL

April 13, 2005

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 2266, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** Restricting access to certain precursor drugs used to manufacture methamphetamine to ensure that they are only sold at retail to individuals who will use them for legitimate purposes upon production of proper identification is an essential step to controlling the manufacture of methamphetamine.

NEW SECTION. **Sec. 2.** A new section is added to chapter 69.43 RCW to read as follows:

(1) Any product containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers as its only active ingredient, sold at retail shall be sold only by a pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, or a practitioner as defined in RCW 18.64.011. A pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, or a practitioner as defined in RCW 18.64.011 may only sell products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers as its only active ingredient to customers that are at least eighteen years old, upon presentation of photographic identification that shows the date of birth of the person. The products must be kept in a location that is not accessible by customers without the assistance of an employee of the merchant.

(2) A person buying or receiving a product at retail containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers as its only active ingredient, from a pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, or a practitioner as defined in RCW 18.64.011, must be at least eighteen years old and must first produce photographic identification of the person that shows the date of birth of the person.

NEW SECTION. **Sec. 3.** A new section is added to chapter 69.43 RCW to read as follows:

(1)(a) The Washington association of sheriffs and police chiefs or the Washington state patrol may petition the state board of pharmacy to establish restrictions for one or more products containing any amount of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, in combination with another active ingredient. The petition shall establish that:

(i) Ephedrine, pseudoephedrine, or phenylpropanolamine can be effectively extracted from the product and converted into methamphetamine or another controlled dangerous substance; and

(ii) Law enforcement, the Washington state patrol, or the department of ecology are finding substantial evidence that the product is being used for the illegal manufacture of methamphetamine or another controlled dangerous substance.

(b) The state board of pharmacy shall adopt rules when a petition establishes that restricting the sale of the product at retail is warranted based upon the effectiveness and extent of use of the product for the illegal manufacture of methamphetamine or other controlled dangerous substances and the extent of the burden of any restrictions upon consumers. The state board of pharmacy may adopt such restrictions as are warranted to prevent access to the product for use for the illegal manufacture of methamphetamine or another controlled dangerous substance, including the presentation of photographic identification and accessibility requirements. The state board of pharmacy may adopt emergency rules to restrict the sale of a product when the petition establishes that the immediate restriction of the product is necessary in order to protect public health and safety.

(c) A manufacturer of a drug product may apply for removal of the product from this section if the product is determined by the state board of pharmacy to have been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine. The burden of proof for exemption is upon the person requesting the exemption. The petitioner shall provide the state board of pharmacy with evidence that the product has been formulated in such a way as to serve as an effective general deterrent to the conversion of pseudoephedrine into methamphetamine. The evidence must include the furnishing of a valid scientific study, conducted by an independent, professional laboratory and evincing professional quality chemical analysis. Factors to be considered in whether a product should be excluded from this section include but are not limited to:

(i) Ease with which the product can be converted to methamphetamine;

(ii) Ease with which pseudoephedrine is extracted from the substance and whether it forms an emulsion, salt, or other form;

(iii) Whether the product contains a "molecular lock" that renders it incapable of being converted into methamphetamine;

(iv) Presence of other ingredients that render the product less likely to be used in the manufacture of methamphetamine; and

(v) Any pertinent data that can be used to determine the risk of the substance being used in the illegal manufacture of methamphetamine or any other controlled substance.

(2) Nothing in this section applies:

(a) To the sale of a product that may only be sold upon the presentation of a prescription; or

(b) When the details of the transaction are recorded in a pharmacy profile individually identified with the recipient and maintained by a licensed pharmacy or registered shopkeeper or itinerant vendor.

(3)(a) No pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or a practitioner as defined in RCW 18.64.011, may retaliate against any employee that has made a good faith attempt to comply with any requirement that the state board of pharmacy may impose under subsection (1) of this section.

(b) No pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or a practitioner as defined in RCW 18.64.011, is subject to prosecution under subsection (4) of this section if they made a good faith attempt to comply with any requirement that the state board of pharmacy may impose under subsection (1) of this section.

(4) A violation of this section is a gross misdemeanor.

NEW SECTION. **Sec. 4.** (1) The state board of pharmacy shall convene a work group to study the need for requiring and maintaining logs of transactions involving ephedrine, pseudoephedrine, or phenylpropanolamine.

(2) The study shall include:

(a) Whether a log is an effective law enforcement tool;

(b) What information is needed to make logs useful as a deterrent to criminal activity;

(c) The most effective method of obtaining, recording, and storing log information in the least intrusive manner available;

(d) How long the information recorded in the logs should be maintained; and

(e) How logs can be most effectively transmitted to law enforcement and the state board of pharmacy.

(3) The work group shall consist of:

(a) One representative from law enforcement appointed by the Washington association of sheriffs and police chiefs;

(b) One representative appointed by the Washington association of prosecuting attorneys;

(c) One representative appointed by the office of the attorney general;

(d) One representative appointed by the state board of pharmacy; and

(e) Two representatives from the retail industry.

(4) The state board of pharmacy shall report to the legislature no later than November 30, 2005, regarding the findings of the work group along with any recommendations or proposed legislation."

On page 1, line 2 of the title, after "phenylpropanolamine;" strike the remainder of the title and insert "adding new sections to chapter 69.43 RCW; creating new sections; and prescribing penalties."

There being no objection, the House refused to concur in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2266 and asked the Senate for a conference thereon.

Representative Bailey moved that the House do concur in the Senate amendment to Engrossed Substitute House Bill No. 2266 and place the bill as amended by the Senate on final passage.

Representatives Bailey, Curtis, Talcott and Armstrong spoke in favor of the motion to concur.

Representatives Cody, Campbell and Morrell spoke against the motion to concur.

The Speaker (Representative Lovick presiding) stated the question before the House to be the motion to concur in the Senate amendment to Engrossed Substitute House Bill No. 2266 and place the bill as amended by the Senate on final passage.

Division was demanded and the demand was sustained. The Speaker (Representative Lovick presiding) divided the House. The results was 38 - YEAS; 60 -NAYS. The motion failed.

The Speaker (Representative Lovick presiding) appointed Representatives Morrell, Campbell and Curtis as conferees on ENGROSSED SUBSTITUTE HOUSE BILL NO. 2266.

SENATE AMENDMENTS TO HOUSE BILL

April 7, 2005

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1064, with the following amendment:

Strike everything after the enacting clause and insert the following:

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

(1) Citizens demand and deserve accountability of public programs. Public programs must continuously improve in quality, efficiency, and effectiveness in order to increase public trust;

(2) Washington state government and other entities that receive tax dollars must continuously improve the way they operate and deliver services so citizens receive maximum value for their tax dollars;

(3) An independent citizen advisory board is necessary to ensure that government services, customer satisfaction, program efficiency, and management systems are world class in performance;

(4) Fair, independent, professional performance audits of state agencies are essential to improving the efficiency and effectiveness of government; and

(5) The performance audit activities of the joint legislative audit and review committee should be supplemented by making fuller use of the state auditor's resources and capabilities.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.09 RCW to read as follows:

For purposes of sections 3 through 6, 8, 9, and 11 of this act:

(1) "Board" means the citizen advisory board created in section 3 of this act.

(2) "Draft work plan" means the work plan for conducting performance audits of state agencies proposed by the board and state auditor after the statewide performance review.

(3) "Final performance audit report" means a written document jointly released by the citizen advisory board and the state auditor that includes the findings and comments from the preliminary performance audit report.

(4) "Final work plan" means the work plan for conducting performance audits of state agencies adopted by the board and state auditor.

(5) "Performance audit" means an objective and systematic assessment of a state agency or any of its programs, functions, or activities by an independent evaluator in order to help public officials improve efficiency, effectiveness, and accountability. Performance audits include economy and efficiency audits and program audits.

(6) "Preliminary performance audit report" means a written document prepared after the completion of a performance audit to be submitted for comment before the final performance audit report. The preliminary performance audit report must contain the audit findings and any proposed recommendations to improve the efficiency, effectiveness, or accountability of the state agency being audited.

(7) "State agency" or "agency" means a state agency, department, office, officer, board, commission, bureau, division, institution, or institution of higher education. "State agency" includes all offices of executive branch state government elected officials.

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.09 RCW to read as follows:

(1) The citizen advisory board is created to improve efficiency, effectiveness, and accountability in state government.

(2) The board shall consist of ten members as follows:

(a) One member shall be the state auditor, who shall be a nonvoting member;

(b) One member shall be the legislative auditor, who shall be a nonvoting member;

(c) One member shall be the director of the office of financial management, who shall be a nonvoting member;

(d) Four of the members shall be selected by the governor as follows: Each major caucus of the house of representatives and the senate shall submit a list of three names. The lists may not include the names of members of the legislature or employees of the state. The governor shall select a person from each list provided by each caucus; and

(e) The governor shall select three citizen members who are not state employees.

(3) The board shall elect a chair. The legislative auditor, the state auditor, and the director of the office of financial management may not serve as chair.

(4) Appointees shall be individuals who have a basic understanding of state government operations with knowledge and expertise in performance management, quality management, strategic planning, performance assessments, or closely related fields.

(5) Members selected under subsection (2)(d) and (e) of this section shall serve for terms of four years, with the terms expiring on June 30th on the fourth year of the term. However, in the case of the initial members, two members shall serve four-year terms, two members shall serve three-year terms, and one member shall serve a two-year term, with each of the terms expiring on June 30th of the applicable year. Appointees may be reappointed to serve more than one term.

(6) The office of the state auditor shall provide clerical, technical, and management personnel to the board to serve as the board's staff.

(7) The board shall meet at least once a quarter and may hold additional meetings at the call of the chair or by a majority vote of the members of the board.

(8) The members of the board shall be compensated in accordance with RCW 43.03.220 and reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. **Sec. 4.** A new section is added to chapter 43.09 RCW to read as follows:

The board shall establish an assessment and performance grading program. The program shall consist of conducting performance assessments and grading state agency performance. Assessments shall be implemented on a phased-in schedule. Initial areas to be assessed shall include quality management, productivity and fiscal efficiency, program effectiveness, contract management and oversight, internal audit, internal and external customer satisfaction, statutory and regulatory compliance, and technology systems and on-line services. As part of this program, the board shall:

(1) Consult with and seek input from elected officials, state employees including front-line employees, and professionals with a background in performance management for establishing the grading standards. In developing the criteria, the board shall consider already developed best practices and audit criteria used by government or nongovernment organizations. Before the assessment, the agencies shall be given the criteria for the assessment and the standards for grading;

(2) Contract or partner with those public or private entities that have expertise in developing public sector reviews applying fact-based objective criteria and/or technical expertise in individual assessment areas to perform the assessments and grading of all state agencies. The board may contract or partner with more than one entity for different assessment areas; and

(3) Submit the results of the assessment and grading program to the governor, the office of financial management, appropriate legislative committees, and the public by December 15th of each year. The results of the assessments and performance grading shall be posted on the internet.

NEW SECTION. **Sec. 5.** A new section is added to chapter 43.09 RCW to read as follows:

(1) The board and the state auditor shall collaborate with the joint legislative audit and review committee regarding performance audits of state government.

(a) The board shall establish criteria for performance audits consistent with the criteria and standards followed by the joint legislative audit and review committee. This criteria shall include, at a minimum, the auditing standards of the United States government accountability office, as well as legislative mandates and performance objectives established by state agencies and the legislature. Mandates include, but are not limited to, agency strategies, timelines, program objectives, and mission and goals as required in RCW 43.88.090.

(b) Using the criteria developed in (a) of this subsection, the state auditor shall contract for a statewide performance review to be completed as expeditiously as possible as a preliminary to a draft work plan for conducting performance audits. The board and the state auditor shall develop a schedule and common methodology for conducting these reviews. The purpose of these performance reviews is to identify those agencies, programs, functions, or activities most likely to benefit from performance audits and to identify likely areas warranting early review, taking into account prior performance audits, if any, and prior fiscal audits.

(c) The board and the state auditor shall develop the draft work plan for performance audits based on input from citizens, state employees, including front-line employees, state managers, chairs and ranking members of appropriate legislative committees, the joint legislative audit and review committee, public officials, and others. The draft work plan may include a list of agencies, programs, or systems to be audited on a timeline decided by the board and the state auditor based on a number of factors including risk, importance, and citizen concerns. When putting together the draft work plan, there should be consideration of all audits and reports already required. On average, audits shall be designed to be completed as expeditiously as possible.

(d) Before adopting the final work plan, the board shall consult with the legislative auditor and other appropriate oversight and audit entities to coordinate work plans and avoid duplication of effort in their planned performance audits of state government agencies. The board shall defer to the joint legislative audit and review committee work plan if a similar audit is included on both work plans for auditing.

(e) The state auditor shall contract out for performance audits. In conducting the audits, agency front-line employees and internal auditors should be involved.

(f) All audits must include consideration of reports prepared by other government oversight entities.

(g) The audits may include:

(i) Identification of programs and services that can be eliminated, reduced, consolidated, or enhanced;

(ii) Identification of funding sources to the state agency, to programs, and to services that can be eliminated, reduced, consolidated, or enhanced;

(iii) Analysis of gaps and overlaps in programs and services and recommendations for improving, dropping, blending, or separating functions to correct gaps or overlaps;

(iv) Analysis and recommendations for pooling information technology systems used within the state agency, and evaluation of information processing and telecommunications policy, organization, and management;

(v) Analysis of the roles and functions of the state agency, its programs, and its services and their compliance with statutory authority and recommendations for eliminating or changing those roles and functions and ensuring compliance with statutory authority;

(vi) Recommendations for eliminating or changing statutes, rules, and policy directives as may be necessary to ensure that the agency carry out reasonably and properly those functions vested in the agency by statute;

(vii) Verification of the reliability and validity of agency performance data, self-assessments, and performance measurement systems as required under RCW 43.88.090;

(viii) Identification of potential cost savings in the state agency, its programs, and its services;

(ix) Identification and recognition of best practices;

(x) Evaluation of planning, budgeting, and program evaluation policies and practices;

(xi) Evaluation of personnel systems operation and management;

(xii) Evaluation of state purchasing operations and management policies and practices; and

(xiii) Evaluation of organizational structure and staffing levels, particularly in terms of the ratio of managers and supervisors to nonmanagement personnel.

(h) The state auditor must solicit comments on preliminary performance audit reports from the audited state agency, the office of the governor, the office of financial management, the board, the chairs and ranking members of appropriate legislative committees, and the joint legislative audit and review committee for comment. Comments must be received within thirty days after receipt of the preliminary performance audit report unless a different time period is approved by the state auditor. All comments shall be incorporated into the final performance audit report. The final performance audit report shall include the objectives, scope, and methodology; the audit results, including findings and recommendations; conclusions; and identification of best practices.

(i) The board and the state auditor shall jointly release final performance audit reports to the governor, the citizens of Washington, the joint legislative audit and review committee, and the appropriate standing legislative committees. Final performance audit reports shall be posted on the internet.

(j) For institutions of higher education, performance audits shall not duplicate, and where applicable, shall make maximum use of existing audit records, accreditation reviews, and performance measures required by the office of financial management, the higher education coordinating board, and nationally or regionally recognized accreditation organizations including accreditation of hospitals licensed under chapter 70.41 RCW and ambulatory care facilities.

(2) The citizen board created under RCW 44.75.030 shall be responsible for performance audits for transportation related agencies as defined under RCW 44.75.020.

NEW SECTION. **Sec. 6.** A new section is added to chapter 43.09 RCW to read as follows:

If the legislative authority of a local jurisdiction requests a performance audit of programs under its jurisdiction, the state auditor has the discretion to conduct such a review under separate contract and funded by local funds.

NEW SECTION. **Sec. 7.** A new section is added to chapter 43.88 RCW to read as follows:

In addition to the authority given the state auditor in RCW 43.88.160(6), the state auditor is authorized to contract for and oversee performance audits pursuant to section 5 of this act.

NEW SECTION. **Sec. 8.** A new section is added to chapter 43.09 RCW to read as follows:

By June 30, 2007, and each four years thereafter, the joint legislative audit and review committee shall contract with a private entity for a performance audit of the performance audit program established in section 5 of this act and the board's responsibilities under the performance audit program.

NEW SECTION. **Sec. 9.** A new section is added to chapter 43.09 RCW to read as follows:

The audited agency is responsible for follow-up and corrective action on all performance audit findings and recommendations. The audited agency's plan for addressing each audit finding and recommendation shall be included in the final audit report. The plan shall provide the name of the contact person responsible for each action, the action planned, and the anticipated completion date. If the audited agency does not agree with the audit findings and recommendations or believes action is not required, then the action plan shall include an explanation and specific reasons.

For agencies under the authority of the governor, the governor may require periodic progress reports from the audited agency until all resolution has occurred.

For agencies under the authority of an elected official other than the governor, the appropriate elected official may require periodic reports of the action taken by the audited agency until all resolution has occurred.

The board may request status reports on specific audits or findings.

NEW SECTION. **Sec. 10.** A new section is added to chapter 2.56 RCW to read as follows:

The office of the administrator for the courts is encouraged to conduct performance audits of courts under the authority of the supreme court, in conformity with criteria and methods developed by the board for judicial administration that have been approved by the supreme court. In developing criteria and methods for conducting performance audits, the board for judicial administration is encouraged to consider quality improvement programs, audits, and scoring. The judicial branch is encouraged to submit the results of these efforts to the chief justice of the supreme court or his or her designee, and with any other applicable boards or committees established under the authority of the supreme court to oversee government accountability.

NEW SECTION. **Sec. 11.** A new section is added to chapter 43.09 RCW to read as follows:

(1) Each biennium the legislature shall appropriate such sums as may be necessary, not to exceed an amount equal to two one-hundredths of one percent of the total general fund state appropriation in that biennium's omnibus operating appropriations act for purposes of the performance review, performance audits, and activities of the board authorized by this chapter.

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(2) The board and the state auditor shall submit recommended budgets for their responsibilities under sections 2 through 6, 8, and 9 of this act to the auditor, who shall then prepare a consolidated budget request, in the form of request legislation, to assist in determining the funding under subsection (1) of this section."

On page 1, line 2 of the title, after "accountability;" strike the remainder of the title and insert "adding new sections to chapter 43.09 RCW; adding a new section to chapter 43.88 RCW; adding a new section to chapter 2.56 RCW; and creating new sections."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1064 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representatives Miloscia and Nixon spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed Substitute House Bill No. 1064 as amended by the Senate.

MOTION

On motion of Representative Clements, Representative Sump was excused.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1064, as amended by the Senate and the bill passed the House by the following vote: Yeas - 75, Nays - 22, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Appleton, Blake, Campbell, Chase, Clibborn, Cody, Conway, Curtis, Darneille, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Nixon, O'Brien, Orcutt, Ormsby, Pettigrew, Priest, Quall, Roach, Roberts, Santos, Schual-Berke, Sells, Serben, Shabro, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 75.

Voting nay: Representatives Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Chandler, Clements, Condotta, Cox, Crouse, DeBolt, Ericksen, Holmquist, Kretz, Kristiansen, Newhouse, Pearson, Rodne, Schindler, Skinner and Strow - 22.

Excused: Representative Sump - 1.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1064, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 5, 2005

Mr. Speaker:

The Senate has passed ENGROSSED HOUSE BILL NO. 1074, with the following amendment:

On page 5, line 17, strike all of section 4

On page 1, line 2 of the title, after "program;" insert "and" and on line 3 after "43.185A.030" strike "; and providing an expiration date"

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to ENGROSSED HOUSE BILL NO. 1074 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representatives Dunshee, Jarrett and Holmquist spoke in favor the passage of the bill.

Representative Miloscia spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed House Bill No. 1074 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 1074, as amended by the Senate and the bill passed the House by the following vote: Yeas - 93, Nays - 4, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby,

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Pearson, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 93.

Voting nay: Representatives Dunn, Hasegawa, Miloscia and Pettigrew - 4.

Excused: Representative Sump - 1.

ENGROSSED HOUSE BILL NO. 1074, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 15, 2005

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 2212, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.415 RCW to read as follows:

(1) All credits earned in furtherance of degrees earned by certificated staff, that are used to increase earnings on the salary schedule consistent with RCW 28A.415.023, must be obtained from an educational institution accredited by an accrediting association recognized by rule of the state board of education.

(2) The office of the superintendent of public instruction shall verify for school districts the accreditation status of educational institutions granting degrees that are used by certificated staff to increase earnings on the salary schedule consistent with RCW 28A.415.023.

(3) The office of the superintendent of public instruction shall provide school districts with training and additional resources to ensure they can verify that degrees earned by certificated staff, that are used to increase earnings on the salary schedule consistent with RCW 28A.415.023, are obtained from an educational institution accredited by an accrediting association recognized by rule of the state board of education.

(4)(a) No school district may submit degree information before there has been verification of accreditation under subsection (3) of this section.

(b) Certificated staff who submit degrees received from an unaccredited educational institution for the purposes of receiving a salary increase shall be fined three hundred dollars. The fine shall be paid to the office of the superintendent of public instruction and used for costs of administering this section.

(c) In addition to the fine in (b) of this subsection, certificated staff who receive salary increases based upon degrees earned from educational institutions that have been verified to be unaccredited must reimburse the district for any compensation received based on these degrees.

Sec. 2. RCW 28A.410.090 and 2004 c 134 s 2 are each amended to read as follows:

(1) Any certificate or permit authorized under the provisions of this chapter, chapter 28A.405 RCW, or rules promulgated thereunder may be revoked or suspended by the authority authorized to grant the same based upon a criminal records report authorized by law, or upon the complaint of any school district superintendent, educational service district superintendent, or private school administrator for immorality, violation of written contract, unprofessional conduct, intemperance, or crime against the law of the state.

If the superintendent of public instruction has reasonable cause to believe that an alleged violation of this chapter or rules adopted under it has occurred based on a written complaint alleging physical abuse or sexual misconduct by a certificated school employee filed by a parent or another person, but no complaint has been forwarded to the superintendent by a school district superintendent, educational service district superintendent, or private school administrator, and that a school district superintendent, educational service district superintendent, or private school administrator has sufficient notice of the alleged violation and opportunity to file a complaint, the superintendent of public instruction may cause an investigation to be made of the alleged violation, together with such other matters that may be disclosed in the course of the investigation related to certificated personnel.

(2) A parent or another person may file a written complaint with the superintendent of public instruction alleging physical abuse or sexual misconduct by a certificated school employee if:

(a) The parent or other person has already filed a written complaint with the educational service district superintendent concerning that employee;

(b) The educational service district superintendent has not caused an investigation of the allegations and has not forwarded the complaint to the superintendent of public instruction for investigation; and

(c) The written complaint states the grounds and factual basis upon which the parent or other person believes an investigation should be conducted.

(3) Any such certificate or permit authorized under this chapter or chapter 28A.405 RCW shall be revoked by the authority authorized to grant the certificate upon a guilty plea or the conviction of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (excepting motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction. The person whose certificate is in question shall be given an opportunity to be heard. Mandatory permanent revocation upon a guilty plea or the conviction of felony crimes specified under this subsection shall apply to such convictions or guilty pleas which occur after July 23, 1989. Revocation of any certificate or permit authorized under this chapter or chapter 28A.405 RCW for a guilty plea or criminal conviction occurring prior to July 23, 1989, shall be subject to the provisions of subsection (1) of this section.

(4)(a) Any such certificate or permit authorized under this chapter or chapter 28A.405 RCW shall be suspended or revoked, according to the provisions of this subsection, by the authority authorized to grant the certificate upon a finding that an employee has engaged in an unauthorized use of school equipment to intentionally access material depicting sexually explicit conduct or has intentionally possessed on school grounds any material depicting sexually explicit conduct; except for material used in conjunction with established curriculum. A first time violation of this subsection shall result in either suspension or revocation of the employee's

certificate or permit as determined by the office of the superintendent of public instruction. A second violation shall result in a mandatory revocation of the certificate or permit.

(b) In all cases under this subsection (4), the person whose certificate is in question shall be given an opportunity to be heard and has the right to appeal as established in RCW 28A.410.100. Certificates or permits shall be suspended or revoked under this subsection only if findings are made on or after the effective date of this section. For the purposes of this subsection, "sexually explicit conduct" has the same definition as provided in RCW 9.68A.011."

On page 1, line 1 of the title, after "certification;" strike the remainder of the title and insert "amending RCW 28A.410.090; and adding a new section to chapter 28A.415 RCW."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 2212 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS AMENDED BY SENATE

Representatives Hunter and Talcott spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Second Substitute House Bill No. 2212 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 2212, as amended by the Senate and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 97.

Excused: Representative Sump - 1.

SECOND SUBSTITUTE HOUSE BILL NO. 2212, as amended by the Senate having received the constitutional majority, was declared passed.

HOUSE AMENDMENT TO SENATE BILL

April 18, 2005

Mr. Speaker:

The Senate refuses to concur in the House amendments to SECOND SUBSTITUTE SENATE BILL NO. 5782 and asks the House to recede therefrom.

Thomas Hoemann, Secretary

There being no objection, the House insisted on its position in its amendments to SECOND SUBSTITUTE SENATE BILL NO. 5782 and asked the Senate to concur therein.

HOUSE AMENDMENT TO SENATE BILL

April 16, 2005

Mr. Speaker:

The Senate refuses to concur in the House amendments to SUBSTITUTE SENATE BILL NO. 6025 and asks the House to recede therefrom.

Thomas Hoemann, Secretary

There being no objection, the House insisted on its position in its amendments to SUBSTITUTE SENATE BILL NO. 6025 and asked the Senate to concur therein.

There being no objection, the House advanced to the sixth order of business.

SECOND READING

HOUSE BILL NO. 2309, By Representative Linville; by request of Office of Financial Management

Modifying water right fees.

The bill was read the second time.

There being no objection, Substitute House Bill No. 2309 was substituted for House Bill No. 2309 and the substitute bill was placed on the second reading calendar.

SUBSTITUTE HOUSE BILL NO. 2309 was read the second time.

With the consent of the House, amendment (423) was withdrawn.

Representative Linville moved the adoption of amendment (578):

draft

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that the fees associated with various actions of the department of ecology relating to the processing and administration of water rights are outdated and are insufficient even to recover the cost of handling the funds submitted. The legislature also finds that water right processing fees are currently collected at three different stages of the water rights process and that reducing the number of instances of fee collection to two stages of the process would increase efficiency and reduce administrative costs. The legislature further finds that several current statutory fees are archaic or are otherwise covered by other general statutes, including the state's public disclosure laws. The legislature therefore intends to update and modernize the fee schedule associated with water right-related actions of the department of ecology.

Sec. 2. RCW 90.03.470 and 1993 c 495 s 2 are each amended to read as follows:

((~~Except as otherwise provided in subsection (15) of this section,~~)) The ((~~following~~)) fees specified in this section shall be collected by the department in advance((~~:~~)) of the requested action.

(1) For the examination of an application for a permit to appropriate water ((~~or on application to change point of diversion, withdrawal, purpose or place of use~~)), a minimum fee of ((~~ten~~)) fifty dollars((~~, to be paid~~)) must be remitted with the application. For ((~~each second foot between one and five hundred second feet, two dollars per second foot; for each second foot between five hundred and two thousand second feet, fifty cents per second foot; and for each second foot in excess thereof, twenty cents per second foot~~)) an amount of water exceeding one-half cubic foot per second, the examination fee shall be assessed at the rate of one dollar per one hundredth cubic foot per second. In no case will the examination fee be less than fifty dollars or more than twenty-five thousand dollars. No fee is required under this subsection (1) for an application filed by a party to a cost reimbursement agreement made under RCW 90.03.265.

(2) For the examination of an application to store water, a fee of two dollars for each acre foot of storage ((~~up to and including one hundred thousand acre feet, one cent per acre foot, and for each acre foot in excess thereof, one-fifth cent per acre foot~~)) proposed shall be charged, but a minimum fee of fifty dollars must be remitted with the application. In no case will the examination fee for a storage project be less than fifty dollars or more than twenty-five thousand dollars. No fee is required under this subsection (2) for an application filed by a party to a cost reimbursement agreement made under RCW 90.03.265.

(3)(a) For the examination of an application to transfer, change, or amend a water right certificate, permit, or claim as authorized by RCW 90.44.100, 90.44.105, or 90.03.380, a minimum fee of fifty dollars must be remitted with the application. For an application for change involving an amount of water exceeding one cubic foot per second, the total examination fee shall be assessed at the rate of fifty cents per one hundredth cubic foot per second. For an application for change of a storage water right, the total examination fee shall be assessed at the rate of one dollar for each acre foot of water involved in the change. The fee shall be based on the amount of water subject to change as proposed in the application, not on the total amount of water reflected in the water right certificate, permit, or claim. In no case will the examination fee charged for a change application be less than fifty dollars or more than twelve thousand five hundred dollars.

(b) The examination fee for a temporary or seasonal change under RCW 90.03.390 is fifty dollars and must be remitted with the application.

(c) No fee is required under this subsection (3) for:

(i) An application to process a change relating to donation of a trust water right to the state;

(ii) An application to process a change when the department otherwise acquires a trust water right for purposes of improving instream flows or for other public purposes;

(iii) An application filed with a water conservancy board according to chapter 90.80 RCW or for the review of a water conservancy board's record of decision submitted to the department according to chapter 90.80 RCW; or

(iv) An application filed by a party to a cost reimbursement agreement made under RCW 90.03.265.

(d) For a change, transfer, or amendment involving a single project operating under more than one water right, including related secondary diversion rights, or involving the consolidation of multiple water rights, only one examination fee and one certificate fee are required to be paid.

(4) The ((~~ten~~)) fifty-dollar minimum fee payable with the application shall be a credit to ((~~that~~)) the total amount whenever the examination fee ((~~for direct diversion or storage~~)) totals more than ((~~ten~~)) fifty dollars under the ((~~above schedule~~)) schedule specified in subsections (1) through (3) of this section and in such case the further fee due shall be the total computed amount, less ((~~ten dollars~~)) the amount previously paid. Within five working days from receipt of an application, the department shall notify the applicant by registered mail of any additional fees due under ((~~the above schedule and any additional fees shall be paid to and received by the department within thirty days from the date of filing the application, or the application shall be rejected~~)) subsections (1) through (3) of this section.

(((~~(2) For filing and recording a permit to appropriate water for irrigation purposes, forty cents per acre for each acre to be irrigated up to and including one hundred acres, and twenty cents per acre for each acre in excess of one hundred acres up to and including one thousand acres, and ten cents for each acre in excess of one thousand acres; and also twenty cents for each theoretical horsepower up to and including one thousand horsepower, and four cents for each theoretical horsepower in excess of one thousand horsepower, but in no instance shall the minimum fee for filing and recording a permit to appropriate water be less than five dollars. For all other beneficial purposes the fee shall be twice the amount of the examination fee except that for individual household and domestic use, which may include water for irrigation of a family garden, the fee shall be five dollars.~~

~~(3) For filing and recording any other water right instrument, four dollars for the first hundred words and forty cents for each additional hundred words or fraction thereof.~~

~~(4) For making a copy of any document recorded or filed in his office, forty cents for each hundred words or fraction thereof, but when the amount exceeds twenty dollars, only the actual cost in excess of that amount shall be charged.~~

~~(5) For certifying to copies, documents, records or maps, two dollars for each certification.~~

~~(6) For blueprint copies of a map or drawing, or, for such other work of a similar nature as may be required of the department, at actual cost of the work.~~

~~(7)~~)) (5) The fees specified in subsections (1) through (3) of this section do not apply to any filings for emergency withdrawal authorizations or temporary drought-related water right changes

authorized under RCW 43.83B.410 that are received by the department while a drought condition order issued under RCW 43.83B.405 is in effect.

(6) For ((~~granting~~)) applying for each extension of time for beginning construction work under a permit to appropriate water, ((~~an amount equal to one-half of the filing and recording fee, except that the minimum fee shall be not less than five dollars for each year that an extension is granted, and for granting an extension of time~~)) for completion of construction work, or for completing application of water to a beneficial use, ((~~five dollars for each year that an extension is granted~~)) a fee of fifty dollars is required. These fees also apply to similar extensions of time requested under a change or transfer authorization.

(((~~(8)~~))) (7) For the inspection of any hydraulic works to insure safety to life and property, a fee based on the actual cost of the inspection, including the expense incident thereto, is required.

(((~~(9)~~))) (8) For the examination of plans and specifications as to safety of controlling works for storage of ten acre feet or more of water, a minimum fee of ten dollars, or a fee equal to the actual cost, is required.

(((~~(10)~~))) (9) For recording an assignment either of a permit to appropriate water or of an application for such a permit, a fee of ((~~five~~)) fifty dollars is required.

(((~~(11)~~))) (10) For preparing and issuing all water right certificates, ((~~five~~)) a fee of fifty dollars is required.

(((~~(12)~~))) (11) For filing and recording a formal protest against granting any application, ((~~two~~)) a fee of fifty dollars is required. No fee is required to submit a comment, by mail or otherwise, regarding an application.

(((~~(13)~~))) (12) For filing an application to amend a water right claim filed under chapter 90.14 RCW, a fee of fifty dollars is required.

(13) An application or request for an action as provided for under this section is incomplete unless accompanied by the fee or the minimum fee. If no fee or an amount less than the minimum fee accompanies an application or other request for an action as provided under this section, the department shall return the application or request to the applicant with advice as to the fee that must be remitted with the application or request for it to be accepted for processing. If additional fees are due, the department shall provide timely notification by certified mail with return receipt requested to ((~~applicants that fees are due~~)) the applicant. No action may be taken by the department until the fee is paid in full. Failure to remit fees within sixty days of the department's notification ((~~shall be~~)) is grounds for rejecting the application or request or canceling the permit. Cash shall not be accepted. Fees must be paid by check or money order and are nonrefundable.

(14) For purposes of calculating fees for ground water filings, one cubic foot per second shall be regarded as equivalent to four hundred fifty gallons per minute.

(15) ((~~For the period beginning July 1, 1993, and ending June 30, 1994, there is imposed and the department shall collect a one hundred dollar surcharge on all water rights applications or changes filed under this section, and upon all water rights applications or changes pending as of July 1, 1993. This charge shall be in addition to any other fees imposed under this section.~~)) Fees collected by the department under this section shall be deposited to the state general fund.

(16) Except for the fees relating to the inspection of hydraulic works and the examination of plans and specifications of controlling works provided for in subsections (7) and (8) of this section, nothing in this section is intended to grant authority to the department to amend the fees in this section by adoption of rules or otherwise."

Correct the title.

Representative Anderson moved the adoption of amendment (579) to amendment (578):

On page 5, line 36 of the amendment, after "~~section.~~))" strike "Fees" and insert "Eighty percent of the fees"

On page 5, line 37 of the amendment, after "deposited" strike "to" and insert "in"

On page 5, line 38 of the amendment, after "fund." insert "Twenty percent of the fees collected by the department under this section shall be deposited in the water rights tracking system account established in section 3 of this act."

On page 6, after line 5 of the amendment, insert the following:

"NEW SECTION. **Sec. 3.** A new section is added to chapter 90.14 RCW to read as follows:

The water rights tracking system account is created in the state treasury. Twenty percent of the fees collected by the department of ecology according to RCW 90.03.470 must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used by the department of ecology for the development, implementation, and management of a water rights tracking system, including a water rights mapping system and a water rights data base."

Correct the title.

Representatives Anderson and Linville spoke in favor of the adoption of the amendment to the amendment.

The amendment to the amendment was adopted.

The amendment (578) as amended was adopted. The bill was ordered engrossed.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Linville and Newhouse spoke in favor of passage of the bill.

Representative Holmquist spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 2309.

ROLL CALL

UNOFFICIAL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 2309 and the bill passed the House by the following vote: Yeas - 62, Nays - 35, Absent - 0, Excused - 1.

Voting yea: Representatives Anderson, Appleton, Bailey, Chase, Clements, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Haigh, Hankins, Hasegawa, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Ormsby, Pettigrew, Priest, Quall, Roberts, Rodne, Santos, Schual-Berke, Sells, Simpson, Sommers, Strow, Sullivan, B., Sullivan, P., Tom, Upthegrove, Wallace, Walsh, Williams, Wood and Mr. Speaker - 62.

Voting nay: Representatives Ahern, Alexander, Armstrong, Blake, Buck, Buri, Campbell, Chandler, Condotta, Cox, Crouse, Curtis, DeBolt, Dunn, Ericksen, Green, Haler, Hinkle, Holmquist, Hudgins, Kilmer, Kretz, Kristiansen, McCune, Orcutt, Pearson, Roach, Schindler, Serben, Shabro, Skinner, Springer, Takko, Talcott and Woods - 35.

Excused: Representative Sump - 1.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2309, having received the necessary constitutional majority, was declared passed.

SUBSTITUTE SENATE BILL NO. 5256, By Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove and Stevens)

Revising provisions relating to the use of risk assessments in the supervision of offenders who committed misdemeanors and gross misdemeanors.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Fromhold and Pearson spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5256.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5256 and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 97.

Excused: Representative Sump - 1.

SUBSTITUTE SENATE BILL NO. 5256, having received the necessary constitutional majority, was declared passed.

SENATE BILL NO. 5948, By Senators Pridemore and Zarelli; by request of Department of Revenue

Modifying unclaimed property provisions.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives McIntire and Orcutt spoke in favor of passage of the bill.

Representatives Clements and Dunn spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5948.

ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5948 and the bill passed the House by the following vote: Yeas - 66, Nays - 31, Absent - 0, Excused - 1.

Voting yea: Representatives Alexander, Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Nixon, O'Brien, Orcutt, Ormsby, Pettigrew, Quall, Roach, Roberts, Santos, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Upthegrove, Wallace, Williams, Wood, Woods and Mr. Speaker - 66.

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Voting nay: Representatives Ahern, Anderson, Armstrong, Bailey, Buck, Buri, Campbell, Chandler, Clements, Condotta, Cox, Crouse, Curtis, DeBolt, Dunn, Eickmeyer, Ericksen, Hinkle, Holmquist, Kretz, Kristiansen, McCune, Newhouse, Pearson, Priest, Rodne, Schindler, Strow, Talcott, Tom and Walsh - 31.

Excused: Representative Sump - 1.

SENATE BILL NO. 5948, having received the necessary constitutional majority, was declared passed.

SUBSTITUTE SENATE BILL NO. 5999, By Senate Committee on Ways & Means (originally sponsored by Senators Prentice and Brown)

Exempting service contracts to administer parking and business improvement areas from excise taxation.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives McIntire and Orcutt spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5999.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5999 and the bill passed the House by the following vote: Yeas - 95, Nays - 2, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 95.

Voting nay: Representatives Clements and Cox - 2.

Excused: Representative Sump - 1.

SUBSTITUTE SENATE BILL NO. 5999, having received the necessary constitutional majority, was declared passed.

There being no objection, the House reverted to the fourth order of business.

INTRODUCTION & FIRST READING

ESSB 6104 By Senate Committee on Transportation (originally sponsored by Senators Haugen and Swecker; by request of Department of Transportation)

AN ACT Relating to construction of new vessels for Washington State Ferries; and adding a new section to chapter 47.60 RCW.

Referred to Committee on Rules.

There being no objection, the bill listed on the day's introduction sheet under the fourth order of business were referred to the committees so designated.

There being no objection, the House advanced to the eleventh order of business.

APPOINTMENT OF CONFEREES

The Speaker (Representative Lovick presiding) appointed Representatives Linville, Kristiansen and Ericksen as conferees on ENGROSSED SUBSTITUTE HOUSE BILL NO. 1903.

The Speaker (Representative Lovick presiding) appointed Representatives Pettigrew, Linville and Holmquist as conferees on SUBSTITUTE SENATE BILL NO. 5602.

There being no objection, the House adjourned until 10:00 a.m., April 10, 2005, the 101st Day of the Regular Session.

FRANK CHOPP, Speaker

RICHARD NAFZIGER, Chief Clerk

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