

EIGHTY-SEVENTH DAY

MORNING SESSION

Senate Chamber, Olympia, Wednesday, April 4, 2007

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

The Sergeant at Arms Color Guard consisting of Pages Miranda Merchant and Rosa Robertson, presented the Colors. Reverend Dennis Payne of Ebenezer African Methodist Episcopal Church offered the prayer.

MOTION

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

MOTION

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

**MESSAGE FROM THE GOVERNOR
GUBERNATORIAL APPOINTMENTS**

March 29, 2007

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON
Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

JERRY HEBERT, reappointed June 18, 2007, for the term ending June 17, 2012, as Member of the Human Rights Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Judiciary.

MOTION

On motion of Senator Eide, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

MOTION

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

MESSAGE FROM THE HOUSE

April 3, 2007

MR. PRESIDENT:

The House has passed the following bills:
SENATE BILL NO. 5036,
SENATE BILL NO. 5079,
SENATE BILL NO. 5113,
SUBSTITUTE SENATE BILL NO. 5263,
SENATE BILL NO. 5264,
SENATE BILL NO. 5351,
SENATE BILL NO. 5382,
ENGROSSED SENATE BILL NO. 5385,
SUBSTITUTE SENATE BILL NO. 5405,
SENATE BILL NO. 5408,
SENATE BILL NO. 5490,
SUBSTITUTE SENATE BILL NO. 5715,
SUBSTITUTE SENATE BILL NO. 5720,
SENATE BILL NO. 5879,

SECOND SUBSTITUTE SENATE BILL NO. 5883,
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

April 3, 2007

MR. PRESIDENT:

The House has passed the following bills:
SUBSTITUTE SENATE BILL NO. 5231,
SENATE BILL NO. 5918,
SENATE BILL NO. 5953,
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

April 3, 2007

MR. PRESIDENT:

The House has passed the following bills:
SUBSTITUTE SENATE BILL NO. 5481,
ENGROSSED SENATE BILL NO. 5513,
SENATE BILL NO. 5525,
SUBSTITUTE SENATE BILL NO. 5688,
SENATE BILL NO. 5775,
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

April 3, 2007

MR. PRESIDENT:

The Speaker has signed:
SENATE BILL NO. 5011,
ENGROSSED SENATE BILL NO. 5166,
SUBSTITUTE SENATE BILL NO. 5191,
SENATE BILL NO. 5253,
SENATE BILL NO. 5620,
SUBSTITUTE SENATE BILL NO. 5625,
SENATE BILL NO. 5635,
SENATE BILL NO. 5759,
SUBSTITUTE SENATE BILL NO. 5898,
SUBSTITUTE SENATE BILL NO. 5952,
SENATE BILL NO. 5957,
SENATE JOINT MEMORIAL NO. 8008,
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

April 3, 2007

MR. PRESIDENT:

The Speaker has signed:
SUBSTITUTE HOUSE BILL NO. 1002,
SUBSTITUTE HOUSE BILL NO. 1097,
SUBSTITUTE HOUSE BILL NO. 1337,
SUBSTITUTE HOUSE BILL NO. 1398,
SUBSTITUTE HOUSE BILL NO. 1507,
SUBSTITUTE HOUSE BILL NO. 2103,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2171,
SUBSTITUTE HOUSE BILL NO. 2335,

EIGHTY-SEVENTH DAY, APRIL 4, 2007
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE HOUSE BILL NO. 1002,
SUBSTITUTE HOUSE BILL NO. 1097,
SUBSTITUTE HOUSE BILL NO. 1337,
SUBSTITUTE HOUSE BILL NO. 1398,
SUBSTITUTE HOUSE BILL NO. 1507,
SUBSTITUTE HOUSE BILL NO. 2103,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2171,
SUBSTITUTE HOUSE BILL NO. 2335,

MOTION

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

MOTION

Senator Honeyford moved adoption of the following resolution:

SENATE RESOLUTION
8655

By Senators Honeyford, Fraser, Rasmussen, Pflug, Stevens, Kohl-Welles and McCaslin

WHEREAS, Almost half of the signers of the Declaration of Independence were of Scottish descent, and nine governors of the original thirteen states were of Scottish ancestry; and

WHEREAS, Many early explorers and settlers of the Pacific Northwest were of Scottish or Scots-Irish ancestry and include: William Clark of Lewis and Clark fame; John McLoughlin, Chief Factor at Fort Vancouver, a fur trader and empire builder; James Douglas, Chief Factor at Fort Vancouver; Archibald McKinley, Factor at Fort Walla Walla; Ulysses S. Grant, Civil War General and President who served at Fort Vancouver and for whom Grant County was named; J.C. Mac Grimmon, a Yakima Valley pioneer and orchardist; Alexander Colin Campbell, farmer, banker, miner, and former mayor of Puyallup; James Dinnie, fur trader and founder of the city of Cathlamet; James Urquart, founder of the city of Napavine and three-term member of the Territorial Legislature; and Abigail Scott Duniway, a suffragette who helped bring passage of the suffrage amendment to the state Constitution; and

WHEREAS, Many current and former legislators and elected officials are of Scottish or Scots-Irish ancestry and include: The late Senator George Sellar and former Senator Dan McDonald; former appointed and elected officials: William Wallace, territorial governor of Washington and Washington's representative to Congress; and Ralph Munro, former Secretary of State. Current elected officials of Scottish or Scots-Irish ancestry are Governor Christine O. Gregoire and Secretary of State Sam Reed; and current members of the Legislature of Scottish or Scots-Irish heritage are: Senators Karen Fraser, Jim Honeyford, Marilyn Rasmussen, Cheryl Pflug, Val Stevens, Bob McCaslin, and Jeanne Kohl-Welles; and Representatives Glen Anderson, Mike Armstrong, Tom Campbell, Bill Hinkle, Joyce McDonald, Ed Orcutt, and Maureen Walsh; and

WHEREAS, The Scots-Irish are Americans of Scottish origin whose ancestors first colonized northern Ireland in the late 1600s before emigrating to the English colonies of North America during the 1700s; and

WHEREAS, The Scots-Irish immigrants to America were devout Presbyterians who dedicated their lives to God and to the ideals of freedom and liberty; and

WHEREAS, The Scots-Irish immigrants to America valued a strong work ethic and embraced a philosophy of common sense; and

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WHEREAS, The Scottish Treaty of Arbroath on April 6, 1320, inspired the contents for America's Declaration of Independence; and

WHEREAS, National Tartan Day is observed each year on the sixth day of April; and

WHEREAS, The Scots-Irish played a pivotal role in winning the American Revolution; and

WHEREAS, The Scots-Irish were in the vanguard of frontiersman who carved a great civilization out of the American wilderness; and

WHEREAS, According to the United States Census Bureau's 2005 American Community Survey, there are more than 157,000 people of Scots-Irish ancestry in the State of Washington; and

WHEREAS, In April 2006, the Triad St. Andrews Society, the Triad Highland Games, and the Scottish-America Military Society proclaimed and declared April 2006 and every April thereafter as National Scots, Scots-Irish Heritage Month; and

WHEREAS, The Governor of the State of Washington has proclaimed April 2007 as "Scots, Scots-Irish Heritage Month" in Washington;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate officially honor Scots, Scots-Irish Heritage Month and the unique and invaluable contributions of Scots-Irish to America and to the State of Washington.

Senator Honeyford spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8655.

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

MOTION

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

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Pridemore moved that Gubernatorial Appointment No. 9193, John White, as a member of the Board of Trustees, Clark Community College District No. 14, be confirmed.

Senator Pridemore spoke in favor of the motion.

MOTION

On motion of Senator Brandland, Senator Benton was excused.

APPOINTMENT OF JOHN WHITE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9193, John White as a member of the Board of Trustees, Clark Community College District No. 14.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9193, John White as a member of the Board of Trustees, Clark Community College District No. 14 and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

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Absent: Senator Clements - 1

Excused: Senator Benton - 1

Gubernatorial Appointment No. 9193, John White, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Clark Community College District No. 14.

MOTION

On motion of Rockefeller, the rules were suspended, the Senate, with a single vote, considered the confirmations of Gubernatorial Appointments and the vote of the Senate was recorded as a separate vote for each appointment.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Weinstein moved that Gubernatorial Appointment No. 9031, Dennis Kloida; Gubernatorial Appointment No. 9039, Karen Miller; Gubernatorial Appointment No. 9051, Tim Otani; Gubernatorial Appointment No. 9066, Faouzi Sefrioui; Gubernatorial Appointment No. 9223, Richard McIver; and Gubernatorial Appointment No. 9226, Raymond Rieckers as members of the Housing Finance Commission, be confirmed.

Senator Weinstein spoke in favor of the motion.

APPOINTMENT OF DENNIS KLOIDA

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9031, Dennis Kloida; Gubernatorial Appointment No. 9039, Karen Miller; Gubernatorial Appointment No. 9051, Tim Otani; Gubernatorial Appointment No. 9066, Faouzi Sefrioui; Gubernatorial Appointment No. 9223, Richard McIver; and Gubernatorial Appointment No. 9226 Raymond Rieckers as members of the Housing Finance Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9031, Dennis Kloida as a member of the Housing Finance Commission and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

APPOINTMENT OF KAREN MILLER

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9039, Karen Miller as Chair of the Housing Finance Commission and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon,

Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

APPOINTMENT OF TIM OTANI

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9051, Tim Otani as a member of the Housing Finance Commission and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

APPOINTMENT OF FAOUZI SEFRIOUI

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9066, Faouzi Sefrioui as a member of the Housing Finance Commission and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

APPOINTMENT OF RICHARD MCIVER

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9223, Richard McIver as a member of the Housing Finance Commission and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

APPOINTMENT OF RAYMOND RIECKERS

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9226, Raymond Rieckers as a member of the Housing Finance Commission and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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

Gubernatorial Appointment No. 9031, Dennis Kloida; Gubernatorial Appointment No. 9039, Karen Miller; Gubernatorial Appointment No. 9051, Tim Otani; Gubernatorial Appointment No. 9066, Faouzi Sefrioui; Gubernatorial Appointment No. 9223, Richard McIver; and Gubernatorial Appointment No. 9226, Raymond Rieckers having received the constitutional majority were declared confirmed as members of the Housing Finance Commission.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Marr moved that Gubernatorial Appointment No. 9115, Francois Forgette, and Gubernatorial Appointment No. 9179, Kyle Smith as members of the Board of Regents, Washington State University, be confirmed.

Senators Marr and Delvin spoke in favor of the motion.

APPOINTMENT OF FRANCOIS FORGETTE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9115, Francois Forgette and Gubernatorial Appointment No. 9179, Kyle Smith as members of the Board of Regents, Washington State University.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9115, Francois Forgette as a member of the Board of Regents, Washington State University and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

APPOINTMENT OF KYLE SMITH

Senator Schoesler spoke in favor of the motion.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9179, Kyle Smith as a member of the Board of Regents, Washington State University and the appointment was confirmed by the following vote:

Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

Gubernatorial Appointment No. 9115, Francois Forgette and Gubernatorial Appointment No. 9179, Kyle Smith having received the constitutional majority was declared confirmed as members of the Board of Regents, Washington State University.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Holmquist moved that Gubernatorial Appointment No. 9085, Anthony Aronica, and Gubernatorial Appointment No. 9150, Patricia Mattsen Notter as members of the Board of Trustees, Central Washington University, be confirmed.

Senator Holmquist spoke in favor of the motion.

APPOINTMENT OF ANTHONY ARONICA

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9085, Anthony Aronica, and Gubernatorial Appointment No. 9150, Patricia Mattsen Notter as members of the Board of Trustees, Central Washington University.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9085, Anthony Aronica as a member of the Board of Trustees, Central Washington University and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

APPOINTMENT OF PATRICIA MATTSSEN NOTTER

Senator Parlette spoke in favor of the motion.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9150, Patricia Mattsen Notter as a member of the Board of Trustees, Central Washington University and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

Gubernatorial Appointment No. 9085, Anthony Aronica, and Gubernatorial Appointment No. 9150, Patricia Mattsen Notter having received the constitutional majority were declared confirmed as members of the Board of Trustees, Central Washington University.

MOTION

At 10:38 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

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

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

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MOTION

Senator Brown moved that Gubernatorial Appointment No. 9135, Tom Karier, as a member of the Northwest Power and Conservation Council, be confirmed.

Senator Brown spoke in favor of the motion.

MOTION

On motion of Senator Brandland, Senator Roach was excused.

APPOINTMENT OF TOM KARIER

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9135, Tom Karier as a member of the Northwest Power and Conservation Council.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9135, Tom Karier as a member of the Northwest Power and Conservation Council and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 2; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Absent: Senators Kastama and Kline - 2

Gubernatorial Appointment No. 9135, Tom Karier, having received the constitutional majority was declared confirmed as a member of the Northwest Power and Conservation Council.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Fraser moved that Gubernatorial Appointment No. 9095, Jay Carmony, and Gubernatorial Appointment No. 9168, Anne Proffitt as members of the Board of Trustees, The Evergreen State College, be confirmed.

Senator Fraser spoke in favor of the motion.

APPOINTMENT OF JAY CARMONY

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9095, Jay Carmony and Gubernatorial Appointment No. 9168, Anne Proffitt as members of the Board of Trustees, The Evergreen State College.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9095, Jay Carmony as a member of the Board of Trustees, The Evergreen State College and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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

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APPOINTMENT OF ANNE PROFFITT

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9168, Anne Proffitt as a member of the Board of Trustees, The Evergreen State College and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

Gubernatorial Appointment No. 9095, Jay Carmony, and Gubernatorial Appointment No. 9168, Anne Proffitt, having received the constitutional majority were declared confirmed as members of the Board of Trustees, The Evergreen State College.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2008, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives VanDeWege, Kessler, Haigh, Takko and Ericks)

Creating a cooperative agreement relating to the timber harvest excise taxation of timber harvests within the Quinault Indian Reservation.

The measure was read the second time.

MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 2008 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2008.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2008 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Voting nay: Senator Holmquist - 1

SUBSTITUTE HOUSE BILL NO. 2008, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Hargrove: "Well, thank you Mr. President. I would like to welcome people from the Quinault Indian Nation, Taholah. This is a reservation that I've worked on for thirty

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years and I really appreciate the community there and the friends I have there. In fact, my son has played baseball with one of the young men up there in the gallery, JC Bringsyellow who is a great baseball player and hits a lot of home runs. I just wanted to point that out."

REMARKS BY THE PRESIDENT

President Owen: "The President would like to make two additional acknowledgments today that are incredibly important. That is the birthdays of Senator Fairley and Senator Franklin. Happy Birthday to you both."

PERSONAL PRIVILEGE

Senator Franklin: "Well, thank you Mr. President and ladies and gentlemen of the Senate. A milestone in my life. I've had many, many mile stones and this mile stone is really a big one. I've had many, many people involved in my life at each mile stone and I learned from each one, each one of those milestones I gained wisdom. Wisdom is something that when you are younger you think you're going to change the world and you take the world on and then at the next point, well, I can change. I'll see what I can do better and form a coalition to try to change the world. The coalition then manages to get some things done but not everything so then another milestone. And with that next milestone of course, Mr. President and members of the Senate, ladies and gentlemen, you keep moving on and making the changes as you move and gathering more wisdom. So, in this August place in which we are today with my twin sitting across the aisle, same birthday that says, 'Ma'am, since you have reached this milestone, you can ask for anything you want and you can get it.' Now that is what my colleagues have said. You can ask for anything. So since I have a few bills stuck, I'd like to have them unstuck. So, really, it's really a great day and all of the beautiful flowers and cards and memories and everything. I'm not going away. I'm going to be around for awhile. So, thank you, I certainly appreciate each and everyone of you and it's been great. Thank you for quite a celebration."

REPLY BY THE PRESIDENT

President Owen: "Senator, this milestone has gathered no moss, that's for sure."

PERSONAL PRIVILEGE

Senator McCaslin: "Thank you Mr. President. Senator Franklin, I want to honor you and admit you to my club. I've been alone for a year and now you joined me. I'm not sure anyone else will join us before you and I, figure this is our last days, but I don't have any bills stuck so I don't have to get down on my knees. It's an honor to serve with you. Welcome to the club. Anyone else can join once you attain the age of eighty, you understand that, and of course none of you are close. When you get there, let us know and we'll honor you also. Welcome to the club."

REMARKS BY THE PRESIDENT

President Owen: "The President thought that discretion was a better part of valor did not mention her age, Senator."

MOTION

At 1:58 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

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

SECOND READING

HOUSE BILL NO. 1331, by Representatives Haigh, Kretz, Wallace, Walsh, Cody, Strow, Hinkle, Pettigrew, Priest and Dunn

Changing veterinary technician credentialing to licensure.

The measure was read the second time.

MOTION

Senator Rasmussen moved that the following committee striking amendment by the Committee on Agriculture & Rural Economic Development be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 18.92.015 and 2000 c 93 s 9 are each amended to read as follows:

~~((Unless the context clearly requires otherwise,))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

~~("Veterinary technician" means a person who has successfully completed an examination administered by the board and who has either successfully completed a post high school course approved by the board in the care and treatment of animals or had five years' practical experience, acceptable to the board, with a licensed veterinarian.))~~

(1) "Board" means the Washington state veterinary board of governors.

(2) "Department" means the department of health.

(3) "Secretary" means the secretary of the department of health.

(4) "Veterinary medication clerk" means a person who has satisfactorily completed a board-approved training program developed in consultation with the board of pharmacy and designed to prepare persons to perform certain nondispensary functions defined by the board and used in the dispensing of legend and nonlegend drugs (except controlled substances as defined in or under chapter 69.50 RCW) associated with the practice of veterinary medicine.

(5) "Veterinary technician" means a person who is licensed by the board upon meeting the requirements of section 2 of this act.

NEW SECTION. Sec. 2. A new section is added to chapter 18.92 RCW to read as follows:

(1) The board shall issue a veterinary technician license to an individual who has:

(a) Successfully passed an examination administered by the board; and

(b)(i) Successfully completed a posthigh school course approved by the board in the care and treatment of animals; or

(ii) Had five years' practical experience, acceptable to the board, with a licensed veterinarian.

(2) The board shall adopt rules under chapter 34.05 RCW identifying standard tasks and procedures that must be included in the experience of a person who qualifies to take the veterinarian technician examination through the period of practical experience required in subsection (1)(b)(ii) of this section, and requirements for the supervising veterinarian's attestation to completion of the practical experience and that training included the required tasks and procedures.

Sec. 3. RCW 18.92.021 and 1983 c 2 s 2 are each amended to read as follows:

(1) There is created a Washington state veterinary board of governors consisting of ~~((six))~~ seven members, five of whom shall be licensed veterinarians, one of whom shall be a licensed veterinary technician trained in both large and small animal medicine, and one of whom shall be a lay member.

(2)(a) The licensed members shall be appointed by the governor. At the time of their appointment the licensed members of the board must be actual residents of the state in active practice as licensed practitioners of veterinary medicine,

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surgery, and dentistry, or employed as a licensed veterinary technician, as applicable, and must be citizens of the United States. Not more than one licensed veterinary member shall be from the same congressional district. The board shall not be deemed to be unlawfully constituted and a member of the board shall not be deemed ineligible to serve the remainder of the member's unexpired term on the board solely by reason of the establishment of new or revised boundaries for congressional districts.

(b) The terms of the first licensed members of the board shall be as follows: One member for five, four, three, two, and one years respectively. Thereafter the terms shall be for five years and until their successors are appointed and qualified.

~~((3))~~ (c) The lay member shall be appointed by the governor for a five year term and until the lay member's successor is appointed.

~~((4))~~ (d) A member may be appointed to serve a second term, if that term does not run consecutively.

(e) Vacancies in the board shall be filled by the governor, the appointee to hold office for the remainder of the unexpired term.

~~((5))~~ (3) The licensed veterinary technician member is a nonvoting member with respect to board decisions related to the discipline of a veterinarian involving standard of care.

(4) Officers of the board shall be a ~~((chairman))~~ chair and a secretary-treasurer to be chosen by the members of the board from among its members.

~~((6))~~ (5) Four members of the board shall constitute a quorum at meetings of the board.

Sec. 4. RCW 18.92.030 and 2000 c 93 s 10 are each amended to read as follows:

(1) The board shall develop and administer, or approve, or both, a licensure examination in the subjects determined by the board to be essential to the practice of veterinary medicine, surgery, and dentistry. The board may approve an examination prepared or administered by a private testing agency or association of licensing authorities.

(2) The board, under chapter 34.05 RCW, may adopt rules necessary to carry out the purposes of this chapter, including:

(a) Standards for the performance of the duties and responsibilities of veterinary technicians and veterinary medication clerks and fixing minimum standards of continuing education for veterinary technicians. The rules shall be adopted in the interest of good veterinary health care delivery to the consuming public and shall not prevent veterinary technicians from inoculating an animal ~~((The board also has the power to adopt by rule)); and~~

(b) Standards prescribing requirements for veterinary medical facilities and fixing minimum standards of continuing veterinary medical education.

(3) The department is the board's official office of record.

Sec. 5. RCW 18.92.013 and 2000 c 93 s 8 are each amended to read as follows:

(1) A veterinarian legally prescribing drugs may delegate to a registered veterinary medication clerk or a ~~((registered))~~ licensed veterinary technician, while under the veterinarian's direct supervision, certain nondiscretionary functions defined by the board and used in the dispensing of legend and nonlegend drugs (except controlled substances as defined in or under chapter 69.50 RCW) associated with the practice of veterinary medicine. Upon final approval of the packaged prescription following a direct physical inspection of the packaged prescription for proper formulation, packaging, and labeling by the veterinarian, the veterinarian may delegate the delivery of the prescription to a registered veterinary medication clerk or ~~((registered))~~ licensed veterinary technician, while under the veterinarian's indirect supervision. Dispensing of drugs by veterinarians, ~~((registered))~~ licensed veterinary technicians, and registered veterinary medication clerks shall meet the applicable requirements of chapters 18.64, 69.40, 69.41, and 69.50 RCW and is subject to inspection by the board of pharmacy investigators.

(2) For the purposes of this section:

(a) "Direct supervision" means the veterinarian is on the premises and is quickly and easily available; and

(b) "Indirect supervision" means the veterinarian is not on the premises but has given written or oral instructions for the delegated task.

Sec. 6. RCW 18.92.140 and 2000 c 93 s 13 are each amended to read as follows:

Each person now qualified to practice veterinary medicine, surgery, and dentistry, ~~((registered))~~ licensed as a veterinary technician, or registered as a veterinary medication clerk in this state or who becomes licensed or registered to engage in practice shall comply with administrative procedures, administrative requirements, and fees determined as provided in RCW 43.70.250 and 43.70.280.

Sec. 7. RCW 18.92.145 and 2000 c 93 s 14 are each amended to read as follows:

Administrative procedures, administrative requirements, and fees shall be established as provided in RCW 43.70.250 and 43.70.280 for the issuance, renewal, or administration of the following licenses, certificates of registration, permits, duplicate licenses, renewals, or examination:

(1) For a license to practice veterinary medicine, surgery, and dentistry issued upon an examination given by the examining board;

(2) For a license to practice veterinary medicine, surgery, and dentistry issued upon the basis of a license issued in another state;

(3) For a ~~((certificate of registration))~~ license as a veterinary technician;

(4) For a certificate of registration as a veterinary medication clerk;

(5) For a temporary permit to practice veterinary medicine, surgery, and dentistry. The temporary permit fee shall be accompanied by the full amount of the examination fee; and

(6) For a license to practice specialized veterinary medicine."

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Agriculture & Rural Economic Development to House Bill No. 1331.

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

MOTION

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

On page 1, line 1 of the title, after "technicians;" strike the remainder of the title and insert "amending RCW 18.92.015, 18.92.021, 18.92.030, 18.92.013, 18.92.140, and 18.92.145; and adding a new section to chapter 18.92 RCW."

MOTION

On motion of Senator Rasmussen, the rules were suspended, House Bill No. 1331 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rasmussen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1331 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1331 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove,

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Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Absent: Senator Brown - 1

HOUSE BILL NO. 1331 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Regala, Senator Brown was excused.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1244, by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Hankins, Clibborn, Wood, Hunt, Haler, Morrell, Kirby, Hasegawa, Moeller, Sells, Strow, McCoy, O'Brien, Ericks, Simpson, Green, Campbell, Williams, Kenney and Ormsby)

Defining wages for industrial insurance purposes.

The measure was read the second time.

MOTION

Senator Kohl-Welles moved that the following committee amendment by the Committee on Labor, Commerce, Research & Development be adopted.

On page 2, line 8, after "fuel," strike "health care."

On page 2, starting on line 9, after "hire," strike all material through "Wages" on line 12

On page 2, line 13, after "section." insert "As consideration of like nature to board, housing, and fuel, wages shall also include the employer's payment or contributions, or appropriate portions thereof, for health care benefits unless the employer continues ongoing and current payment or contributions for these benefits at the same level as provided at the time of injury."

Senators Kohl-Welles and Clements spoke in favor of adoption of the committee amendment.

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Labor, Commerce, Research & Development to Substitute House Bill No. 1244.

The motion by Senator Kohl-Welles carried and the committee amendment was adopted by voice vote.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 1244 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1244 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1244 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47;

Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Absent: Senator Kastama - 1

Excused: Senator Brown - 1

SUBSTITUTE HOUSE BILL NO. 1244 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

STATEMENT FOR THE JOURNAL

While in discussion on other pending legislation, I inadvertently missed the vote on final passage of Substitute House Bill No. 1244, relating to including the cost of health insurance as wages when calculating industrial insurance benefits in some cases. I support the bill and want the Journal to reflect that I would have voted "Yes" on the final passage of Substitute House Bill No. 1244.

SENATOR JIM KASTAMA, 25th Legislative District

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1144, by House Committee on Judiciary (originally sponsored by Representatives Williams, Warnick, Rodne, Campbell, O'Brien, Lantz, Goodman and Moeller)

Providing a uniform method of transferring a municipal court judgment into district court.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 1144 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

MOTION

On motion of Senator Rockefeller, Senator Kastama was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1144.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1144 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 4; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brandland, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Swecker, Tom, Weinstein and Zarelli - 44

Voting nay: Senators Benton, Carrell, Holmquist and

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Stevens - 4

Excused: Senator Brown - 1

SUBSTITUTE HOUSE BILL NO. 1144, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1266, by House Committee on Appropriations (originally sponsored by Representatives Conway, Fromhold, B. Sullivan, Kenney, Ericks, Simpson and Moeller)

Determining death benefits for public employees. Revised for 1st Substitute: Addressing death benefits for public employees.

The measure was read the second time.

MOTION

Senator Prentice moved that the following committee amendment by the Committee on Ways & Means be adopted.

On page 5, after line 33, insert the following:

"Sec. 9. RCW 41.40.700 and 2003 c 155 s 7 are each amended to read as follows:

(1) Except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible child or children shall elect to receive ~~(either)~~ one of the following:

(a) A retirement allowance computed as provided for in RCW 41.40.630, actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 41.40.660 and, except under subsection (4) of this section, if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.40.630; if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse and member were equal at the time of the member's death; ~~((or))~~

(b) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of

accumulated contributions pursuant to a court order filed under RCW 41.50.670; or

(c) For a member who leaves the employ of an employer to enter the uniformed services of the United States and who dies after January 1, 2007, while honorably serving in the uniformed services of the United States in a conflict identified in RCW 41.04.005, an amount equal to two hundred percent of the member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies after October 1, 1977, and is not survived by a spouse or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To a person or persons, estate, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives.

(4) A member who is killed in the course of employment, as determined by the director of the department of labor and industries, is not subject to an actuarial reduction under RCW 41.40.630. The member's retirement allowance is computed under RCW 41.40.620."

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

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Ways & Means to Substitute House Bill No. 1266.

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

MOTION

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

On page 1, line 3 of the title, strike "and 43.43.285", and insert "43.43.285, and 41.40.700".

MOTION

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

Senators Prentice and Clements spoke in favor of passage of the bill.

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

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1266 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

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Absent: Senator Fraser - 1

Excused: Senator Brown - 1

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

PERSONAL PRIVILEGE

Senator Kline: "Thank you Mr. President. The leaves are on the cherry trees, or whether the blossoms are out, it's that time of year and I think it's time, since we're going to be here late hours, for all of the members-and I mean on both sides of the aisle-to understand that the what is formerly known as the effete liberal espresso machine is now available. It's coffee hour. In order though to make it more accessible, so that more members than just our good member from the fifth are willing to come over, we now have a larger size cup. So, rather than have a dainty little Seattle-sized espresso cup, where you have to lift your pinky in order to drink it. We have a good, SUV-size cup or rather an ORV-size cup, so all of you can be seen drinking this kind of cup of coffee. Machines open, its bi-partisan, ya all welcome."

REPLY BY THE PRESIDENT

President Owen: "The President would remind the members those are not floor model cups."

MOTION

On motion of Senator Regala, Senator Fraser was excused.

MOTION

On motion of Senator Brandland, Senator Hewitt was excused.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1694, by House Committee on Transportation (originally sponsored by Representatives Flannigan, Upthegrove and Kenney)

Requiring the agency council on coordinated transportation to coordinate special needs transportation.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 47.06B.010 and 1999 c 385 s 1 are each amended to read as follows:

The legislature finds that transportation systems for persons with special needs are not operated as efficiently as possible. In ~~((some))~~ too many cases, programs established by the legislature to assist persons with special needs can not be accessed due to these inefficiencies and coordination barriers.

It is the intent of the legislature that public transportation agencies, pupil transportation programs, private nonprofit transportation providers, and other public agencies sponsoring programs that require transportation services coordinate those transportation services. Through coordination of transportation services, programs will achieve increased efficiencies and will be able to provide more rides to a greater number of persons with special needs.

Sec. 2. RCW 47.06B.020 and 1998 c 173 s 2 are each amended to read as follows:

(1) The agency council on coordinated transportation is created. The council is composed of ~~((nine))~~ ten voting members and ~~((eight))~~ four nonvoting, legislative members.

(2) The ~~((nine))~~ ten voting members are the superintendent of public instruction or a designee, the secretary of transportation or a designee, the secretary of the department of social and health services or a designee, and ~~((six))~~ seven members appointed by the governor as follows:

(a) One representative from the office of the governor;

(b) ~~((Two))~~ Three persons who are consumers of special needs transportation services, which must include at least two of the following:

(i) One person designated by the executive director of the governor's committee on disability issues and employment;

(ii) One person who is designated by the executive director of the developmental disabilities council; or

(iii) One person who is designated by the chair of the council on aging;

(c) One representative from the Washington association of pupil transportation;

(d) One representative from the Washington state transit association; and

(e) One of the following:

(i) A representative from the community transportation association of the Northwest; or

(ii) A representative from the community action council association.

(3) The ~~((eight))~~ four nonvoting members are legislators as follows:

(a) ~~((Four))~~ Two members from the house of representatives, ~~((two))~~ one from each of the two largest caucuses, appointed by the speaker of the house of representatives, ~~((two who are members of))~~ including at least one member from the house transportation policy and budget committee ~~((and two who are members of))~~ or the house appropriations committee; and

(b) ~~((Four))~~ Two members from the senate, ~~((two))~~ one from each of the two largest caucuses, appointed by the president of the senate, ~~((two members of))~~ including at least one member from the senate transportation committee ~~((and two members of))~~ or the senate ways and means committee.

(4) Gubernatorial appointees of the council will serve two-year terms. Members may not receive compensation for their service on the council, but will be reimbursed for actual and necessary expenses incurred in performing their duties as members as set forth in RCW 43.03.220.

(5) The secretary of transportation or a designee shall serve as the chair.

(6) The department of transportation shall provide necessary staff support for the council.

(7) The council may receive gifts, grants, or endowments from public or private sources that are made from time to time, in trust or otherwise, for the use and benefit of the purposes of the council and spend gifts, grants, or endowments or income from the public or private sources according to their terms, unless the receipt of the gifts, grants, or endowments violates RCW 42.17.710.

(8) The meetings of the council must be open to the public, with the agenda published in advance, and minutes kept and made available to the public. The public notice of the meetings must indicate that accommodations for persons with disabilities will be made available upon request.

(9) All meetings of the council must be held in locations that are readily accessible to public transportation, and must be scheduled for times when public transportation is available.

(10) The council shall make an effort to include presentations by and work sessions including persons with special transportation needs.

Sec. 3. RCW 47.06B.030 and 1999 c 385 s 5 are each reenacted and amended to read as follows:

(1) To assure implementation of ~~((the Program for))~~ an effective system of coordinated transportation that meets the needs of persons with special transportation needs, the agency council on

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coordinated transportation(~~(5) the council, in coordination with stakeholders,)) shall:~~

~~((1) Develop guidelines for local planning of coordinated transportation in accordance with this chapter;~~

~~—(2) Initiate local planning processes by contacting the board of commissioners and county councils in each county and encouraging them to convene local planning forums for the purpose of implementing special needs coordinated transportation programs at the community level;~~

~~—(3) Work with local community forums to designate a local lead organization that shall cooperate and coordinate with private and nonprofit transportation brokers and providers, local public transportation agencies, local governments, and user groups;~~

~~—(4) Provide a forum at the state level in which state agencies will discuss and resolve coordination issues and program policy issues that may impact transportation coordination and costs;~~

~~—(5) Provide guidelines for state agencies to use in creating policies, rules, or procedures to encourage the participation of their constituents in community-based planning and coordination, in accordance with this chapter;~~

~~—(6) Facilitate state-level discussion and action on problems and barriers identified by the local forums that can only be resolved at either the state or federal level;~~

~~—(7) Develop and test models for determining the impacts of facility siting and program policy decisions on transportation costs;~~

~~—(8) Develop methodologies and provide support to local and state agencies in identifying transportation costs;~~

~~—(9) Develop guidelines for setting performance measures and evaluating performance;~~

~~—(10) Develop monitoring reporting criteria and processes to assess state and local level of participation with this chapter;~~

~~—(11) Administer and manage grant funds to develop, test, and facilitate the implementation of coordinated systems;~~

~~—(12) Develop minimum standards for safety, driver training, and vehicles, and provide models for processes and technology to support coordinated service delivery systems;~~

~~—(13) Provide a clearinghouse for sharing information about transportation coordination best practices and experiences;~~

~~—(14) Promote research and development of methods and tools to improve the performance of transportation coordination in the state;~~

~~—(15) Provide technical assistance and support to communities;~~

~~—(16) Facilitate, monitor, provide funding as available, and give technical support to local planning processes;~~

~~—(17) Form, convene, and give staff support to stakeholder work groups as needed to continue work on removing barriers to coordinated transportation;~~

~~—(18) Advocate for the coordination of transportation for people with special transportation needs at the federal, state, and local levels;~~

~~—(19) Recommend to the legislature changes in laws to assist coordination of transportation services;~~

~~—(20) Petition the office of financial management to make whatever changes are deemed necessary to identify transportation costs in all executive agency budgets;~~

~~—(21) Report to the legislature by December 1, 2000, on council activities including, but not limited to, the progress of community planning processes, what demonstration projects have been undertaken, how coordination affected service levels, and whether these efforts produced savings that allowed expansion of services. Reports must be made once every two years thereafter, and other times as the council deems necessary))~~

~~(a) Focus its efforts on projects that identify and address barriers in laws, policies, and procedures;~~

~~(b) Focus on results; and~~

~~(c) Identify and advocate for transportation system improvements for persons with special transportation needs.~~

(2) The council shall, as necessary, convene work groups at the state, regional, or local level to develop and implement coordinated approaches to special needs transportation.

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(3) To improve the service experienced by persons with special transportation needs, the council shall develop statewide guidelines for customer complaint processes. To be eligible for funding on or after January 1, 2008, organizations applying for state paratransit/special needs grants as described in section 226(1), chapter 370, Laws of 2006 must implement a process following the guidelines established by the council.

(4) The council shall represent the needs and interests of persons with special transportation needs in statewide efforts for emergency and disaster preparedness planning.

Sec. 4. RCW 47.06B.040 and 1999 c 385 s 6 are each amended to read as follows:

((The council may request, and may require as a condition of receiving coordination grants, selected county governments to convene local planning forums and invite participation of all entities, including tribal governments, that serve or transport persons with special transportation needs. Counties are encouraged to coordinate and combine their forums and planning processes with other counties, as they find it appropriate. The local community forums must:

—(1) Designate a lead organization to facilitate the community planning process on an ongoing basis;

—(2) Identify functional boundaries for the local coordinated transportation system;

—(3) Clarify roles and responsibilities of the various participants;

—(4) Identify community resources and needs;

—(5) Prepare a plan for developing a coordinated transportation system that meets the intent of this chapter, addresses community needs, and efficiently uses community resources to address unmet needs;

—(6) Implement the community coordinated transportation plan;

—(7) Develop performance measures consistent with council guidelines;

—(8) Develop a reporting process consistent with council guidelines;

—(9) Raise issues and barriers to the council when resolution is needed at either the state or federal level;

—(10) Develop a process for open discussion and input on local policy and facility siting decisions that may have an impact on the special needs transportation costs and service delivery of other programs and agencies in the community-))

The agency council on coordinated transportation shall review and recommend certification of local plans developed by regional transportation planning organizations based on meeting federal requirements. Each regional transportation planning organization must submit to the council an updated plan that includes the elements, consistent with federal planning requirements, identified by the council beginning on July 1, 2007, and every four years thereafter.

Sec. 5. RCW 47.80.023 and 1998 c 171 s 8 are each amended to read as follows:

Each regional transportation planning organization shall have the following duties:

(1) Prepare and periodically update a transportation strategy for the region. The strategy shall address alternative transportation modes and transportation demand management measures in regional corridors and shall recommend preferred transportation policies to implement adopted growth strategies. The strategy shall serve as a guide in preparation of the regional transportation plan.

(2) Prepare a regional transportation plan as set forth in RCW 47.80.030 that is consistent with county-wide planning policies if such have been adopted pursuant to chapter 36.70A RCW, with county, city, and town comprehensive plans, and state transportation plans.

(3) Certify by December 31, 1996, that the transportation elements of comprehensive plans adopted by counties, cities, and towns within the region reflect the guidelines and principles developed pursuant to RCW 47.80.026, are consistent with the adopted regional transportation plan, and, where appropriate, conform with the requirements of RCW 36.70A.070.

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(4) Where appropriate, certify that county-wide planning policies adopted under RCW 36.70A.210 and the adopted regional transportation plan are consistent.

(5) Develop, in cooperation with the department of transportation, operators of public transportation services and local governments within the region, a six-year regional transportation improvement program which proposes regionally significant transportation projects and programs and transportation demand management measures. The regional transportation improvement program shall be based on the programs, projects, and transportation demand management measures of regional significance as identified by transit agencies, cities, and counties pursuant to RCW 35.58.2795, 35.77.010, and 36.81.121, respectively. The program shall include a priority list of projects and programs, project segments and programs, transportation demand management measures, and a specific financial plan that demonstrates how the transportation improvement program can be funded. The program shall be updated at least every two years for the ensuing six-year period.

(6) Designate a lead planning agency to coordinate preparation of the regional transportation plan and carry out the other responsibilities of the organization. The lead planning agency may be a regional organization, a component county, city, or town agency, or the appropriate Washington state department of transportation district office.

(7) Review level of service methodologies used by cities and counties planning under chapter 36.70A RCW to promote a consistent regional evaluation of transportation facilities and corridors.

(8) Work with cities, counties, transit agencies, the department of transportation, and others to develop level of service standards or alternative transportation performance measures.

(9) Submit to the agency council on coordinated transportation, as provided in chapter 47.06B RCW, beginning on July 1, 2007, and every four years thereafter, an updated plan that includes the elements identified by the council.

NEW SECTION. Sec. 6. A new section is added to chapter 47.06B RCW to read as follows:

The agency council on coordinated transportation shall submit a progress report on council activities to the legislature by December 1, 2009, and every other year thereafter. The report must describe the council's progress in attaining the applicable goals identified in the council's biennial work plan and highlight any problems encountered in achieving these goals. The information will be reported in a form established by the council.

NEW SECTION. Sec. 7. (1) The joint transportation committee, in consultation with the agency council on coordinated transportation and the joint legislative audit and review committee, as deemed appropriate by the committee, shall conduct a study and review the legal and programmatic changes and best practices necessary for effective coordination of transportation services for persons with special transportation needs.

(2) The study shall:

(a) Include a comprehensive, statewide survey of existing transportation resources for persons with special transportation needs;

(b) Identify opportunities for improving coordination by determining a uniform system of:

- (i) Measuring and reporting trip costs;
- (ii) Provider billing practices;
- (iii) Provider agreements and reporting requirements; and
- (iv) Sharing eligibility information and trip requirements;

and

(c) Make recommendations for:

- (i) Improving access to customer services;
- (ii) Integrating services of transportation service providers and brokers; and
- (iii) Best practices to effectively coordinate transportation services for persons with special transportation needs, including those at the subregional level.

(3) In conducting the study, the committee shall:

(a) Convene one or more meetings to consult with local and regional special needs transportation providers, brokers, users of transit services, representatives of nonprofit organizations that provide related transportation services, including hopelink, and representatives of other agencies and organizations, including the department of social and health services;

(b) Identify federal funding and related program barriers to improved coordination between state and federal programs and to reasonable cost sharing for those programs;

(c) Review and consider other relevant model coordinated special needs transportation systems throughout the nation as a source of best practices for Washington state, including the ACCESS transportation system in Pittsburgh, Pennsylvania;

(d) Evaluate using nontraditional service providers, such as public utility districts;

(e) Evaluate methods to influence facility siting decisions for state agencies serving persons with special transportation needs in order to make facilities accessible; and

(f) Evaluate appropriate standards and strategies for a decentralized broker system, including the state's role in this system.

(4) The committee shall provide a final report to the transportation committees of the senate and the house of representatives by December 1, 2007.

Sec. 8. RCW 47.06B.900 and 1999 c 385 s 7 are each amended to read as follows:

The agency council on coordinated transportation is terminated on June 30, ~~((2007))~~ 2010, as provided in RCW 47.06B.901.

Sec. 9. RCW 47.06B.901 and 1999 c 385 s 8 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, ~~((2008))~~ 2011:

~~(1) RCW 47.06B.010 and 2007 c ... s 1 (section 1 of this act), 1999 c 385 s 1, & 1998 c 173 s 1;~~

~~(2) RCW 47.06B.012 and 1999 c 385 s 2;~~

~~(3) ((RCW 47.06B.015 and 1999 c 385 s 3;~~

~~—(4)) RCW 47.06B.020 and ((1999 c 385 s 4)) 2007 c ... s 2 (section 2 of this act) & 1998 c 173 s 2;~~

~~((5)) (4) RCW 47.06B.030 and 2007 c ... s 3 (section 3 of this act), 1999 c 385 s 5, & 1998 c 173 s 3; ((and~~

~~—(6)) (5) RCW 47.06B.040 and 2007 c ... s 4 (section 4 of this act) & 1999 c 385 s 6; and~~

~~(6) Section 6 of this act.~~

NEW SECTION. Sec. 10. 1999 c 372 s 13 is repealed.

NEW SECTION. Sec. 11. RCW 47.06B.015 (Program for Agency Coordinated Transportation) and 1999 c 385 s 3 are each repealed."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to Substitute House Bill No. 1694.

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

MOTION

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

On page 1, line 2 of the title, after "transportation;" strike the remainder of the title and insert "amending RCW 47.06B.010, 47.06B.020, 47.06B.040, 47.80.023, 47.06B.900, and 47.06B.901; reenacting and amending RCW 47.06B.030; adding a new section to chapter 47.06B RCW; creating a new section; repealing RCW 47.06B.015; and repealing 1999 c 372 s 13."

MOTION

On motion of Senator Murray, the rules were suspended, Substitute House Bill No. 1694 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

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

MOTION

On motion of Senator Regala, Senator Kline was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1694 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1694 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Brown and Hewitt - 2

SUBSTITUTE HOUSE BILL NO. 1694 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2147, by House Committee on Appropriations (originally sponsored by Representatives Kristiansen, Ericks, Chandler, Blake, Curtis, Morrell, Roberts, Hurst, Pearson, McCune, Moeller, B. Sullivan, Simpson, Santos, Ormsby, Newhouse and Kelley)

Providing vocational rehabilitation services for volunteer firefighters and reserve officers.

The measure was read the second time.

MOTION

On motion of Senator Fairley, the rules were suspended, Substitute House Bill No. 2147 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fairley spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2147.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2147 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Excused: Senator Brown - 1

SUBSTITUTE HOUSE BILL NO. 2147, having received the constitutional majority, was declared passed. There being no

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2358, by House Committee on Transportation (originally sponsored by Representatives Rolfes, Strow, Appleton, Seaquist, VanDeWege, Lantz, Flannigan, Roberts, Cody, Green, Eickmeyer, Jarrett and Kessler)

Regarding state ferries.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds from the 2006 Washington state ferries financing study that the state has limited information on state ferry users and markets. Accurate user and market information is vital in order to find ways to maximize the ferry systems' current capacity and to make the most efficient use of citizens' tax dollars. Therefore, it is the intent of the legislature that Washington state ferries be given the tools necessary to maximize existing capacity and to make the most efficient use of existing assets and tax dollars.

Sec. 2. RCW 47.06.140 and 1998 c 171 s 7 are each amended to read as follows:

(1) The legislature declares the following transportation facilities and services to be of statewide significance: The interstate highway system, interregional state principal arterials including ferry connections that serve statewide travel, intercity passenger rail services, intercity high-speed ground transportation, major passenger intermodal terminals excluding all airport facilities and services, the freight railroad system, the Columbia/Snake navigable river system, marine port facilities and services that are related solely to marine activities affecting international and interstate trade, and high-capacity transportation systems serving regions as defined in RCW 81.104.015. The department, in cooperation with regional transportation planning organizations, counties, cities, transit agencies, public ports, private railroad operators, and private transportation providers, as appropriate, shall plan for improvements to transportation facilities and services of statewide significance in the statewide multimodal plan. Improvements to facilities and services of statewide significance identified in the statewide multimodal plan are essential state public facilities under RCW 36.70A.200.

(2) The department of transportation, in consultation with local governments, shall set level of service standards for state highways and state ferry routes of statewide significance. Although the department shall consult with local governments when setting level of service standards, the department retains authority to make final decisions regarding level of service standards for state highways and state ferry routes of statewide significance. In establishing level of service standards for state highways and state ferry routes of statewide significance, the department shall consider the necessary balance between providing for the free interjurisdictional movement of people and goods and the needs of local communities using these facilities. When setting the level of service standards under this section for state ferry routes, the department may allow for a standard that is adjustable for seasonality.

NEW SECTION. Sec. 3. A new section is added to chapter 47.60 RCW to read as follows:

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

(1) "Adaptive management" means a systematic process for continually improving management policies and practices by learning from the outcomes of operational programs.

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(2) "Capital plan" means the state ferry system plan as described in RCW 47.06.050(2) and adopted by the commission.

(3) "Capital project" has the same meaning as used in budget instructions developed by the office of financial management.

(4) "Commission" means the transportation commission created in RCW 47.01.051.

(5) "Improvement project" has the same meaning as in the budget instructions developed by the office of financial management. If the budget instructions do not define improvement project, then it has the same meaning as "program project" in the budget instructions. If a project meets both the improvement project and preservation project definitions in this section it must be defined as an improvement project. New vessel acquisitions must be defined as improvement projects.

(6) "Life-cycle cost model" means that portion of a capital asset inventory system which, among other things, is used to estimate future preservation needs.

(7) "Maintenance cost" has the same meaning as used in budget instructions developed by the office of financial management.

(8) "Preservation project" has the same meaning as used in budget instructions developed by the office of financial management.

(9) "Route" means all ferry sailings from one location to another, such as the Seattle to Bainbridge route or the Port Townsend to Keystone route.

(10) "Sailing" means an individual ferry sailing for a specific route, such as the 5:00 p.m. sailing from Seattle to Bremerton.

(11) "Travel shed" means one or more ferry routes with distinct, common characteristics as determined by the department.

NEW SECTION. Sec. 4. A new section is added to chapter 47.60 RCW to read as follows:

(1) The commission shall, with the involvement of the department, conduct a survey to gather data on ferry users to help inform level of service, operational, pricing, planning, and investment decisions. The survey must include, but is not limited to:

- (a) Recreational use;
- (b) Walk-on customer use;
- (c) Vehicle customer use;
- (d) Freight and goods movement demand; and
- (e) Reactions to potential operational and pricing strategies described under section 7 of this act and RCW 47.60.290.

(2) Ferry advisory committees may provide suggestions to the commission regarding the survey.

(3) The survey must be updated at least every two years and maintained to support the development and implementation of adaptive management of ferry services.

Sec. 5. RCW 47.60.290 and 1983 c 3 s 136 are each amended to read as follows:

~~((Subject to the provisions of RCW 47.60.326;)) (1) The department ((is hereby authorized and directed to)) shall annually review ((tariffs and charges as)) fares and pricing policies applicable to the operation of the Washington state ferries ((for the purpose of establishing a more fair and equitable tariff to be charged passengers, vehicles, and commodities on the routes of the Washington state ferries)).~~

(2) Beginning in 2008, the department shall develop fare and pricing policy proposals that must:

(a) Recognize that each travel shed is unique, and might not have the same farebox recovery rate and the same pricing policies;

(b) Use data from the current survey conducted under section 4 of this act;

(c) Be developed with input from affected ferry users by public hearing and by review with the affected ferry advisory committees, in addition to the data gathered from the survey conducted in section 4 of this act;

(d) Generate the amount of revenue required by the biennial transportation budget; and

(e) Keep fare schedules as simple as possible.

(3) While developing fare and pricing policy proposals, the department must consider the following:

(a) Options for using pricing to level vehicle peak demand; and

(b) Options for using pricing to increase off-peak ridership.
NEW SECTION. Sec. 6. A new section is added to chapter 47.60 RCW to read as follows:

(1) The commission shall adopt fares and pricing policies by rule, under chapter 34.05 RCW, according to the following schedule:

(a) Each year the department shall provide the commission a report of its review of fares and pricing policies, with recommendations for the revision of fares and pricing policies for the ensuing year;

(b) In October of each year, beginning in 2008, the commission shall adopt by rule fares and pricing policies for the ensuing year. The schedule may initially be adopted as an emergency rule if necessary to take effect in, or as near as possible to, the month of October.

(2) The commission may adopt by rule fares that are effective for more or less than one year for the purposes of transitioning to the fare schedule in subsection (1) of this section.

(3) The commission may increase ferry fares included in the schedule of charges adopted under this section by a percentage that exceeds the fiscal growth factor.

(4) The chief executive officer of the ferry system may authorize the use of promotional, discounted, and special event fares to the general public and commercial enterprises for the purpose of maximizing capacity use and the revenues collected by the ferry system. The department shall report to the commission a summary of the promotional, discounted, and special event fares offered during each fiscal year and the financial results from these activities.

(5) Fare revenues and other revenues deposited in the Puget Sound ferry operations account created in RCW 47.60.530 may not be used to support the Puget Sound capital construction account created in RCW 47.60.505, unless the support for capital is separately identified in the fare.

NEW SECTION. Sec. 7. A new section is added to chapter 47.60 RCW to read as follows:

(1) The department shall develop, and the commission shall review, operational strategies to ensure that existing assets are fully utilized and to guide future investment decisions. These operational strategies must, at a minimum:

(a) Recognize that each travel shed is unique and might not have the same operational strategies;

(b) Use data from the current survey conducted under section 4 of this act;

(c) Be consistent with vehicle level of service standards;

(d) Choose the most efficient balance of capital and operating investments by using a life-cycle cost analysis; and

(e) Use methods of collecting fares that maximize efficiency and achieve revenue management control.

(2) After the commission reviews recommendations by the department, the commission and department shall make joint recommendations to the legislature for the improvement of operational strategies.

(3) In developing operational strategies, the following, at a minimum, must be considered:

(a) The feasibility of using reservation systems;

(b) Methods of shifting vehicular traffic to other modes of transportation;

(c) Methods of improving on-dock operations to maximize efficiency and minimize operating and capital costs;

(d) A cost-benefit analysis of remote holding versus over-water holding;

(e) Methods of reorganizing holding areas and minimizing on-dock employee parking to maximize the dock size available for customer vehicles;

(f) Schedule modifications;

(g) Efficiencies in exit queuing and metering; and

(h) Interoperability with other transportation services.

(4) Operational strategies must be reevaluated periodically and, at a minimum, before developing a new capital plan.

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Sec. 8. RCW 47.60.330 and 2003 c 374 s 5 are each amended to read as follows:

(1) Before a substantial change to the service levels provided to ferry users, the department shall consult with affected ferry users by public hearing and by review with the affected ferry advisory committees.

~~(2) Before ((a substantial expansion or curtailment in the level of service provided to ferry users, or a revision in the schedule of ferry tolls or charges)) adding or eliminating a ferry route, the department ((of transportation)) shall consult with affected ferry users and receive legislative approval. ((The consultation shall be: (a) By public hearing in affected local communities; (b) by review with the affected ferry advisory committees pursuant to RCW 47.60.310; (c) by conducting a survey of affected ferry users; or (d) by any combination of (a) through (c).~~

~~Promotional, discount, and special event fares that are not part of the published schedule of ferry charges or tolls are exempt. The department shall report an accounting of all exempt revenues to the transportation commission each fiscal year.~~

~~(2) There is created a ferry system productivity council consisting of a representative of each ferry advisory committee empanelled under RCW 47.60.310, elected by the members thereof, and two representatives of employees of the ferry system appointed by mutual agreement of all of the unions representing ferry employees, which shall meet from time to time with ferry system management to discuss means of improving ferry system productivity.~~

~~(3) Before increasing ferry tolls the department of transportation shall consider all possible cost reductions with full public participation as provided in subsection (1) of this section and, consistent with public policy, shall consider adapting service levels equitably on a route-by-route basis to reflect trends in and forecasts of traffic usage. Forecasts of traffic levels shall be developed by the bond covenant traffic engineering firm appointed under the provisions of RCW 47.60.450. Provisions of this section shall not alter obligations under RCW 47.60.450. Before including any toll increase in a budget proposal by the commission, the department of transportation shall consult with affected ferry users in the manner prescribed in (1)(b) of this section plus the procedure of either (1)(a) or (c) of this section.)~~

NEW SECTION. Sec. 9. A new section is added to chapter 47.60 RCW to read as follows:

(1) Appropriations made for the Washington state ferries capital program may not be used for maintenance costs.

(2) Appropriations made for preservation projects shall be spent only on preservation and only when warranted by asset condition, and shall not be spent on master plans, right-of-way acquisition, or other nonpreservation items.

(3) Systemwide and administrative capital program costs shall be allocated to specific capital projects using a cost allocation plan developed by the department. Systemwide and administrative capital program costs shall be identifiable.

NEW SECTION. Sec. 10. A new section is added to chapter 47.60 RCW to read as follows:

(1) The department shall maintain a life-cycle cost model on capital assets such that:

(a) Available industry standards are used for estimating the life of an asset, and department-adopted standard life cycles derived from the experience of similar public and private entities are used when industry standards are not available;

(b) Standard estimated life is adjusted for asset condition when inspections are made;

(c) It does not include utilities or other systems that are not replaced on a standard life cycle; and

(d) It does not include assets not yet built.

(2) All assets in the life-cycle cost model must be inspected and updated in the life-cycle cost model for asset condition at least every three years.

(3) The life-cycle cost model shall be used when estimating future system preservation needs.

NEW SECTION. Sec. 11. A new section is added to chapter 47.60 RCW to read as follows:

(1) Preservation funding requests shall only be for assets in the life-cycle cost model.

(2) Preservation funding requests that exceed five million dollars per project must be accompanied by a predesign study. The predesign study must include all elements required by the office of financial management.

NEW SECTION. Sec. 12. A new section is added to chapter 47.60 RCW to read as follows:

The department shall develop terminal design standards that:

(1) Adhere to vehicle level of service standards as described in RCW 47.06.140;

(2) Adhere to operational strategies as described in section 7 of this act; and

(3) Choose the most efficient balance between capital and operating investments by using a life-cycle cost analysis.

NEW SECTION. Sec. 13. A new section is added to chapter 47.60 RCW to read as follows:

The capital plan must adhere to the following:

(1) A current ridership demand forecast;

(2) Vehicle level of service standards as described in RCW 47.06.140;

(3) Operational strategies as described in section 7 of this act; and

(4) Terminal design standards as described in section 12 of this act.

NEW SECTION. Sec. 14. A new section is added to chapter 47.60 RCW to read as follows:

(1) Terminal improvement project funding requests must adhere to the capital plan.

(2) Requests for terminal improvement design and construction funding must be submitted with a predesign study that:

(a) Includes all elements required by the office of financial management;

(b) Separately identifies basic terminal elements essential for operation and their costs;

(c) Separately identifies additional elements to provide ancillary revenue and customer comfort and their costs;

(d) Includes construction phasing options that are consistent with forecasted ridership increases;

(e) Separately identifies additional elements requested by local governments and the cost and proposed funding source of those elements;

(f) Separately identifies multimodal elements and the cost and proposed funding source of those elements; and

(g) Identifies all contingency amounts.

NEW SECTION. Sec. 15. A new section is added to chapter 47.60 RCW to read as follows:

(1) The joint legislative audit and review committee shall assess and report as follows:

(a) Audit the implementation of the cost allocation methodology evaluated under chapter . . . (House Bill No. 1094), Laws of 2007, as it exists on the effective date of this section, assessing whether actual costs are allocated consistently with the methodology, whether there are sufficient internal controls to ensure proper allocation, and the adequacy of staff training; and

(b) Review the assignment of preservation costs and improvement costs for fiscal year 2009 to determine whether:

(i) The costs are capital costs;

(ii) The costs meet the statutory requirements for preservation activities and for improvement activities; and

(iii) Improvement costs are within the scope of legislative appropriations.

(2) The report on the evaluations in this section is due by January 31, 2010.

(3) This section expires December 31, 2010.

NEW SECTION. Sec. 16. The following acts or parts of acts are each repealed:

(1) RCW 47.60.150 (Fixing of charges--Deposit of revenues) and 2003 c 374 s 3, 1999 c 94 s 26, & 1990 c 42 s 405; and

(2) RCW 47.60.326 (Schedule of charges for state ferries--Review by department, factors considered--Rule making by commission) and 2005 c 270 s 1, 2003 c 374 s 4, 2001 1st sp.s.

The measure was read the second time.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to Engrossed Substitute House Bill No. 2358.

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

MOTION

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

On page 1, line 1 of the title, after "ferries;" strike the remainder of the title and insert "amending RCW 47.06.140, 47.60.290, and 47.60.330; adding new sections to chapter 47.60 RCW; creating a new section; repealing RCW 47.60.150 and 47.60.326; and providing an expiration date."

MOTION

On motion of Senator Spanel, the rules were suspended, Engrossed Substitute House Bill No. 2358 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senators Rockefeller, Sheldon, Kilmer and Benton spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2358 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2358 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 40; Nays, 8; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Schoesler, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 40

Voting nay: Senators Benton, Holmquist, Kauffman, Keiser, Kilmer, Poulsen, Rockefeller and Sheldon - 8

Excused: Senator Brown - 1

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2358 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED THIRD SUBSTITUTE HOUSE BILL NO. 1001, by House Committee on Appropriations (originally sponsored by Representatives Lovick, Priest, McCoy, Pearson, Kirby, Ross, Hunt, Skinner, Simpson, Newhouse, O'Brien, Armstrong, Ericks, Moeller, Miloscia, Grant, Sells, Green, Eickmeyer, Takko, Kelley, B. Sullivan, Hudgins, Cody, Haigh, Morrell, Chase, Ormsby, Kessler, Blake, Conway, Chandler, P. Sullivan, McDonald, Rodne, Haler, Jarrett, Roach, Walsh, Kristiansen, Wallace, McDermott, Condotta, VanDeWege, Dunshee, McCune, Kenney, Schual-Berke, Hinkle, Bailey, Lantz, Warnick, Upthegrove, Alexander, Campbell and Rolfes)

Combating auto theft.

MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Ways & Means be adopted.

Strike everything after the enacting clause and insert the following:

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

(a) Automobiles are an essential part of our everyday lives. The west coast is the only region of the United States with an increase of over three percent in motor vehicle thefts over the last several years. The family car is a priority of most individuals and families. The family car is typically the second largest investment a person has next to the home, so when a car is stolen, it causes a significant loss and inconvenience to people, imposes financial hardship, and negatively impacts their work, school, and personal activities. Appropriate and meaningful penalties that are proportionate to the crime committed must be imposed on those who steal motor vehicles;

(b) In Washington, more than one car is stolen every eleven minutes, one hundred thirty-eight cars are stolen every day, someone's car has a one in one hundred seventy-nine chance of being stolen, and more vehicles were stolen in 2005 than in any other previous year. Since 1994, auto theft has increased over fifty-five percent, while other property crimes like burglary are on the decline or holding steady. The national crime insurance bureau reports that Seattle and Tacoma ranked in the top ten places for the most auto thefts, ninth and tenth respectively, in 2004. In 2005, over fifty thousand auto thefts were reported costing Washington citizens more than three hundred twenty-five million dollars in higher insurance rates and lost vehicles. Nearly eighty percent of these crimes occurred in the central Puget Sound region consisting of the heavily populated areas of King, Pierce, and Snohomish counties;

(c) Law enforcement has determined that auto theft, along with all the grief it causes the immediate victims, is linked more and more to offenders engaged in other crimes. Many stolen vehicles are used by criminals involved in such crimes as robbery, burglary, and assault. In addition, many people who are stopped in stolen vehicles are found to possess the personal identification of other persons, or to possess methamphetamine, precursors to methamphetamine, or equipment used to cook methamphetamine;

(d) Juveniles account for over half of the reported auto thefts with many of these thefts being their first criminal offense. It is critical that they, along with first time adult offenders, are appropriately punished for their crimes. However, it is also important that first time offenders who qualify receive appropriate counseling treatment for associated problems that may have contributed to the commission of the crime, such as drugs, alcohol, and anger management; and

(e) A coordinated and concentrated enforcement mechanism is critical to an effective statewide offensive against motor vehicle theft. Such a system provides for better communications between and among law enforcement agencies, more efficient implementation of efforts to discover, track, and arrest auto thieves, quicker recovery, and the return of stolen vehicles, saving millions of dollars in potential loss to victims and their insurers.

(2) It is the intent of this act to deter motor vehicle theft through a statewide cooperative effort by combating motor vehicle theft through tough laws, supporting law enforcement activities, improving enforcement and administration, effective prosecution, public awareness, and meaningful treatment for first time offenders where appropriate. It is also the intent of the legislature to ensure that adequate funding is provided to implement this act in order for real, observable reductions in the number of auto thefts in Washington state.

NEW SECTION. Sec. 2. A new section is added to chapter 9A.56 RCW to read as follows:

(1) A person is guilty of theft of a motor vehicle if he or she commits theft of a motor vehicle.

(2) Theft of a motor vehicle is a class B felony.

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Sec. 3. RCW 9A.56.030 and 2005 c 212 s 2 are each amended to read as follows:

(1) A person is guilty of theft in the first degree if he or she commits theft of:

(a) Property or services which exceed(s) one thousand five hundred dollars in value other than a firearm as defined in RCW 9.41.010;

(b) Property of any value, other than a firearm as defined in RCW 9.41.010 or a motor vehicle, taken from the person of another; or

(c) A search and rescue dog, as defined in RCW 9.91.175, while the search and rescue dog is on duty.

(2) Theft in the first degree is a class B felony.

Sec. 4. RCW 9A.56.040 and 1995 c 129 s 12 are each amended to read as follows:

(1) A person is guilty of theft in the second degree if he or she commits theft of:

(a) Property or services which exceed(s) two hundred ~~((and))~~ fifty dollars in value ~~((other than a firearm as defined in RCW 9.41.010;))~~ but does not exceed one thousand five hundred dollars in value, other than a firearm as defined in RCW 9.41.010 or a motor vehicle; or

(b) A public record, writing, or instrument kept, filed, or deposited according to law with or in the keeping of any public office or public servant; or

(c) An access device~~(; or~~

~~(d) A motor vehicle, of a value less than one thousand five hundred dollars).~~

(2) Theft in the second degree is a class C felony.

NEW SECTION. Sec. 5. A new section is added to chapter 9A.56 RCW to read as follows:

(1) A person is guilty of possession of a stolen vehicle if he or she possess a stolen motor vehicle.

(2) Possession of a stolen motor vehicle is a class B felony.

Sec. 6. RCW 9A.56.150 and 1995 c 129 s 14 are each amended to read as follows:

(1) A person is guilty of possessing stolen property in the first degree if he or she possesses stolen property, other than a firearm as defined in RCW 9.41.010 or a motor vehicle, which exceeds one thousand five hundred dollars in value.

(2) Possessing stolen property in the first degree is a class B felony.

Sec. 7. RCW 9A.56.160 and 1995 c 129 s 15 are each amended to read as follows:

(1) A person is guilty of possessing stolen property in the second degree if:

(a) He or she possesses stolen property, other than a firearm as defined in RCW 9.41.010 or a motor vehicle, which exceeds two hundred fifty dollars in value but does not exceed one thousand five hundred dollars in value; or

(b) He or she possesses a stolen public record, writing or instrument kept, filed, or deposited according to law; or

(c) He or she possesses a stolen access device~~(; or~~

~~(d) He or she possesses a stolen motor vehicle of a value less than one thousand five hundred dollars).~~

(2) Possessing stolen property in the second degree is a class C felony.

Sec. 8. RCW 9.94A.525 and 2006 c 128 s 6 and 2006 c 73 s 7 are each reenacted and amended to read as follows:

The offender score is measured on the horizontal axis of the sentencing grid. The offender score rules are as follows:

The offender score is the sum of points accrued under this section rounded down to the nearest whole number.

(1) A prior conviction is a conviction which exists before the date of sentencing for the offense for which the offender score is being computed. Convictions entered or sentenced on the same date as the conviction for which the offender score is being computed shall be deemed "other current offenses" within the meaning of RCW 9.94A.589.

(2)(a) Class A and sex prior felony convictions shall always be included in the offender score.

(b) Class B prior felony convictions other than sex offenses shall not be included in the offender score, if since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of

judgment and sentence, the offender had spent ten consecutive years in the community without committing any crime that subsequently results in a conviction.

(c) Except as provided in (e) of this subsection, class C prior felony convictions other than sex offenses shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent five consecutive years in the community without committing any crime that subsequently results in a conviction.

(d) Except as provided in (e) of this subsection, serious traffic convictions shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender spent five years in the community without committing any crime that subsequently results in a conviction.

(e) If the present conviction is felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)), prior convictions of felony driving while under the influence of intoxicating liquor or any drug, felony physical control of a vehicle while under the influence of intoxicating liquor or any drug, and serious traffic offenses shall be included in the offender score if: (i) The prior convictions were committed within five years since the last date of release from confinement (including full-time residential treatment) or entry of judgment and sentence; or (ii) the prior convictions would be considered "prior offenses within ten years" as defined in RCW 46.61.5055.

(f) This subsection applies to both adult and juvenile prior convictions.

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. Federal convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. If there is no clearly comparable offense under Washington law or the offense is one that is usually considered subject to exclusive federal jurisdiction, the offense shall be scored as a class C felony equivalent if it was a felony under the relevant federal statute.

(4) Score prior convictions for felony anticipatory offenses (attempts, criminal solicitations, and criminal conspiracies) the same as if they were convictions for completed offenses.

(5)(a) In the case of multiple prior convictions, for the purpose of computing the offender score, count all convictions separately, except:

(i) Prior offenses which were found, under RCW 9.94A.589(1)(a), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender score. The current sentencing court shall determine with respect to other prior adult offenses for which sentences were served concurrently or prior juvenile offenses for which sentences were served consecutively, whether those offenses shall be counted as one offense or as separate offenses using the "same criminal conduct" analysis found in RCW 9.94A.589(1)(a), and if the court finds that they shall be counted as one offense, then the offense that yields the highest offender score shall be used. The current sentencing court may presume that such other prior offenses were not the same criminal conduct from sentences imposed on separate dates, or in separate counties or jurisdictions, or in separate complaints, indictments, or informations;

(ii) In the case of multiple prior convictions for offenses committed before July 1, 1986, for the purpose of computing the offender score, count all adult convictions served concurrently as one offense, and count all juvenile convictions entered on the same date as one offense. Use the conviction for the offense that yields the highest offender score.

(b) As used in this subsection (5), "served concurrently" means that: (i) The latter sentence was imposed with specific reference to the former; (ii) the concurrent relationship of the

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sentences was judicially imposed; and (iii) the concurrent timing of the sentences was not the result of a probation or parole revocation on the former offense.

(6) If the present conviction is one of the anticipatory offenses of criminal attempt, solicitation, or conspiracy, count each prior conviction as if the present conviction were for a completed offense. When these convictions are used as criminal history, score them the same as a completed crime.

(7) If the present conviction is for a nonviolent offense and not covered by subsection (11) or (12) of this section, count one point for each adult prior felony conviction and one point for each juvenile prior violent felony conviction and ½ point for each juvenile prior nonviolent felony conviction.

(8) If the present conviction is for a violent offense and not covered in subsection (9), (10), (11), or (12) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult nonviolent felony conviction, and ½ point for each prior juvenile nonviolent felony conviction.

(9) If the present conviction is for a serious violent offense, count three points for prior adult and juvenile convictions for crimes in this category, two points for each prior adult and juvenile violent conviction (not already counted), one point for each prior adult nonviolent felony conviction, and ½ point for each prior juvenile nonviolent felony conviction.

(10) If the present conviction is for Burglary 1, count prior convictions as in subsection (8) of this section; however count two points for each prior adult Burglary 2 or residential burglary conviction, and one point for each prior juvenile Burglary 2 or residential burglary conviction.

(11) If the present conviction is for a felony traffic offense count two points for each adult or juvenile prior conviction for Vehicular Homicide or Vehicular Assault; for each felony offense count one point for each adult and ½ point for each juvenile prior conviction; for each serious traffic offense, other than those used for an enhancement pursuant to RCW 46.61.520(2), count one point for each adult and ½ point for each juvenile prior conviction.

(12) If the present conviction is for manufacture of methamphetamine count three points for each adult prior manufacture of methamphetamine conviction and two points for each juvenile manufacture of methamphetamine offense. If the present conviction is for a drug offense and the offender has a criminal history that includes a sex offense or serious violent offense, count three points for each adult prior felony drug offense conviction and two points for each juvenile drug offense. All other adult and juvenile felonies are scored as in subsection (8) of this section if the current drug offense is violent, or as in subsection (7) of this section if the current drug offense is nonviolent.

(13) If the present conviction is for Escape from Community Custody, RCW 72.09.310, count only prior escape convictions in the offender score. Count adult prior escape convictions as one point and juvenile prior escape convictions as ½ point.

(14) If the present conviction is for Escape 1, RCW 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions as ½ point.

(15) If the present conviction is for Burglary 2 or residential burglary, count priors as in subsection (7) of this section; however, count two points for each adult and juvenile prior Burglary 1 conviction, two points for each adult prior Burglary 2 or residential burglary conviction, and one point for each juvenile prior Burglary 2 or residential burglary conviction.

(16) If the present conviction is for a sex offense, count priors as in subsections (7) through (15) of this section; however count three points for each adult and juvenile prior sex offense conviction.

(17) If the present conviction is for failure to register as a sex offender under RCW 9A.44.130(10), count priors as in subsections (7) through (15) of this section; however count three points for each adult and juvenile prior sex offense conviction, excluding prior convictions for failure to register as a sex offender under RCW 9A.44.130(10), which shall count as one point.

(18) If the present conviction is for an offense committed while the offender was under community placement, add one point.

(19) If the present conviction is for Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without Permission 2, count priors as in subsections (7) through (18) of this section; however count one point for prior convictions of Vehicle Prowling 2, and three points for each adult and juvenile prior Theft 1 (of a motor vehicle), Theft 2 (of a motor vehicle), Possession of Stolen Property 1 (of a motor vehicle), Possession of Stolen Property 2 (of a motor vehicle), Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without Permission 2 conviction.

(20) The fact that a prior conviction was not included in an offender's offender score or criminal history at a previous sentencing shall have no bearing on whether it is included in the criminal history or offender score for the current offense. Accordingly, prior convictions that were not counted in the offender score or included in criminal history under repealed or previous versions of the sentencing reform act shall be included in criminal history and shall count in the offender score if the current version of the sentencing reform act requires including or counting those convictions.

Sec. 9. RCW 9.94A.734 and 2003 c 53 s 62 are each amended to read as follows:

(1) Home detention may not be imposed for offenders convicted of:

- (a) A violent offense;
- (b) Any sex offense;
- (c) Any drug offense;

(d) Reckless burning in the first or second degree as defined in RCW 9A.48.040 or 9A.48.050;

(e) Assault in the third degree as defined in RCW 9A.36.031;

(f) Assault of a child in the third degree;

(g) Unlawful imprisonment as defined in RCW 9A.40.040; or

(h) Harassment as defined in RCW 9A.46.020.

Home detention may be imposed for offenders convicted of possession of a controlled substance under RCW 69.50.4013 or forged prescription for a controlled substance under RCW 69.50.403 if the offender fulfills the participation conditions set forth in this section and is monitored for drug use by a treatment alternatives to street crime program or a comparable court or agency-referred program.

(2) Home detention may be imposed for offenders convicted of burglary in the second degree as defined in RCW 9A.52.030 or residential burglary conditioned upon the offender:

(a) Successfully completing twenty-one days in a work release program;

(b) Having no convictions for burglary in the second degree or residential burglary during the preceding two years and not more than two prior convictions for burglary or residential burglary;

(c) Having no convictions for a violent felony offense during the preceding two years and not more than two prior convictions for a violent felony offense;

(d) Having no prior charges of escape; and

(e) Fulfilling the other conditions of the home detention program.

(3) Home detention may be imposed for offenders convicted of taking a motor vehicle without permission in the second degree as defined in RCW 9A.56.075, theft of a motor vehicle as defined under section 2 of this act, or possession of a stolen motor vehicle as defined under section 5 of this act conditioned upon the offender:

(a) Having no convictions for taking a motor vehicle without permission, theft of a motor vehicle or possession of a stolen motor vehicle during the preceding five years and not more than two prior convictions for taking a motor vehicle without permission, theft of a motor vehicle or possession of a stolen motor vehicle;

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(b) Having no convictions for a violent felony offense during the preceding two years and not more than two prior convictions for a violent felony offense;

(c) Having no prior charges of escape; and

(d) Fulfilling the other conditions of the home detention program.

(4) Participation in a home detention program shall be conditioned upon:

(a) The offender obtaining or maintaining current employment or attending a regular course of school study at regularly defined hours, or the offender performing parental duties to offspring or minors normally in the custody of the offender;

(b) Abiding by the rules of the home detention program; and

(c) Compliance with court-ordered legal financial obligations. The home detention program may also be made available to offenders whose charges and convictions do not otherwise disqualify them if medical or health-related conditions, concerns or treatment would be better addressed under the home detention program, or where the health and welfare of the offender, other inmates, or staff would be jeopardized by the offender's incarceration. Participation in the home detention program for medical or health-related reasons is conditioned on the offender abiding by the rules of the home detention program and complying with court-ordered restitution.

Sec. 10. RCW 9.94A.515 and 2006 c 277 s 6, 2006 c 228 s 9, 2006 c 191 s 2, 2006 c 139 s 2, 2006 c 128 s 3, and 2006 c 73 s 12 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))
- 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 Abandonment of Dependent Person 1 (RCW 9A.42.060)
- Assault of a Child 2 (RCW 9A.36.130)
- Criminal Mistreatment 1 (RCW 9A.42.020)
- 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)

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- 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))
- Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)
- 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))
- Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct (RCW 9.68A.070)
- 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 2 (RCW 9A.42.070)
- 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 2 (RCW 9A.42.030)
- 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)
- Driving While Under the Influence (RCW 46.61.502(6))
- 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)
- Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6))
- 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))

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Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)	Cyberstalking (subsequent conviction or threat of death) (RCW 9.61.260(3))
Influencing Outcome of Sporting Event (RCW 9A.82.070)	Escape 2 (RCW 9A.76.120)
Malicious Harassment (RCW 9A.36.080)	Extortion 2 (RCW 9A.56.130)
Residential Burglary (RCW 9A.52.025)	Harassment (RCW 9A.46.020)
Robbery 2 (RCW 9A.56.210)	Intimidating a Public Servant (RCW 9A.76.180)
Theft of Livestock 1 (RCW 9A.56.080)	Introducing Contraband 2 (RCW 9A.76.150)
Threats to Bomb (RCW 9.61.160)	Malicious Injury to Railroad Property (RCW 81.60.070)
Trafficking in Stolen Property 1 (RCW 9A.82.050)	Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)
Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))	Organized Retail Theft 1 (RCW 9A.56.350(2))
Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))	Patronizing a Juvenile Prostitute (RCW 9.68A.100)
Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))	Perjury 2 (RCW 9A.72.030)
Unlawful transaction of insurance business (RCW 48.15.023(3))	Possession of Incendiary Device (RCW 9.40.120)
Unlicensed practice as an insurance professional (RCW 48.17.063(3))	Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW 9.41.190)
Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))	Promoting Prostitution 2 (RCW 9A.88.080)
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)	((Retail)) Retail Theft with Extenuating Circumstances 1 (RCW 9A.56.360(2))
Willful Failure to Return from Furlough (RCW 72.66.060)	Securities Act violation (RCW 21.20.400)
III Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3))	Tampering with a Witness (RCW 9A.72.120)
Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))	Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))
Assault of a Child 3 (RCW 9A.36.140)	Theft of Livestock 2 (RCW 9A.56.083)
Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))	Theft with the Intent to Resell 1 (RCW 9A.56.340(2))
Burglary 2 (RCW 9A.52.030)	Trafficking in Stolen Property 2 (RCW 9A.82.055)
Communication with a Minor for Immoral Purposes (RCW 9.68A.090)	Unlawful Imprisonment (RCW 9A.40.040)
Criminal Gang Intimidation (RCW 9A.46.120)	Unlawful possession of firearm in the second degree (RCW 9.41.040(2))
Custodial Assault (RCW 9A.36.100)	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)
- Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.130(10)(a))
- 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)
- Organized Retail Theft 2 (RCW 9A.56.350(3))
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Possession of a Stolen Vehicle (section 5 of this act)
- ~~(Retail)~~ Retail Theft with Extenuating Circumstances 2 (RCW 9A.56.360(3))
- Theft 1 (RCW 9A.56.030)
- Theft of a Motor Vehicle (section 2 of this act)
- Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(5)(a))
- Theft with the Intent to Resell 2 (RCW 9A.56.340(3))
- 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))
- Voyeurism (RCW 9A.44.115)
- 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)
- 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. 11. RCW 13.40.0357 and 2006 c 73 s 14 are each amended to read as follows:

DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
.....		
Arson and Malicious Mischief		
A	Arson 1 (9A.48.020)	B +
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (9A.48.090(2) (a) and (c))	E

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E	Malicious Mischief 3 (9A.48.090(2)(b))	E	E	Possession of Marihuana <40 grams (69.50.4014)	E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E	C	Fraudulently Obtaining Controlled Substance (69.50.403)	C
E	Tampering with Fire Alarm Apparatus with Intent to Commit Arson (9.40.105)	E	C +	Sale of Controlled Substance for Profit (69.50.410)	C +
A	Possession of Incendiary Device (9.40.120)	B +	E	Unlawful Inhalation (9.47A.020)	E
Assault and Other Crimes Involving Physical Harm			B	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Counterfeit Substances (69.50.4011(2) (a) or (b))	B
A	Assault 1 (9A.36.011)	B +	C	Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.4011(2) (c), (d), or (e))	C
B +	Assault 2 (9A.36.021)	C +	C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4013)	C
C +	Assault 3 (9A.36.031)	D +	C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4012)	C
D +	Assault 4 (9A.36.041)	E	C	Firearms and Weapons	
B +	Drive-By Shooting (9A.36.045)	C +	B	Theft of Firearm (9A.56.300)	C
D +	Reckless Endangerment (9A.36.050)	E	B	Possession of Stolen Firearm (9A.56.310)	C
C +	Promoting Suicide Attempt (9A.36.060)	D +	E	Carrying Loaded Pistol Without Permit (9.41.050)	E
D +	Coercion (9A.36.070)	E	C	Possession of Firearms by Minor (<18) (9.41.040(2)(a)(iii))	C
C +	Custodial Assault (9A.36.100)	D +	D +	Possession of Dangerous Weapon (9.41.250)	E
Burglary and Trespass			D	Intimidating Another Person by use of Weapon (9.41.270)	E
B +	Burglary 1 (9A.52.020)	C +	Homicide		
B	Residential Burglary (9A.52.025)	C	A +	Murder 1 (9A.32.030)	A
B	Burglary 2 (9A.52.030)	C	A +	Murder 2 (9A.32.050)	B +
D	Burglary Tools (Possession of) (9A.52.060)	E	B +	Manslaughter 1 (9A.32.060)	C +
D	Criminal Trespass 1 (9A.52.070)	E	C +	Manslaughter 2 (9A.32.070)	D +
E	Criminal Trespass 2 (9A.52.080)	E	B +	Vehicular Homicide (46.61.520)	C +
C	Mineral Trespass (78.44.330)	C	Kidnapping		
C	Vehicle Prowling 1 (9A.52.095)	D	A	Kidnap 1 (9A.40.020)	B +
D	Vehicle Prowling 2 (9A.52.100)	E	B +	Kidnap 2 (9A.40.030)	C +
Drugs			C +	Unlawful Imprisonment (9A.40.040)	D +
E	Possession/Consumption of Alcohol (66.44.270)	E	D	Obstructing Governmental Operation	
C	Illegally Obtaining Legend Drug (69.41.020)	D	D	Obstructing a Law Enforcement Officer (9A.76.020)	E
C +	Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030(2)(a))	D +	E	Resisting Arrest (9A.76.040)	E
E	Possession of Legend Drug (69.41.030(2)(b))	E	B	Introducing Contraband 1 (9A.76.140)	C
B +	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Sale (69.50.401(2) (a) or (b))	B +			
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(2)(c))	C			

C	Introducing Contraband 2 (9A.76.150)	D	<u>B</u>	<u>Possession of a Stolen Vehicle (section 5 of this act)</u>	<u>C</u>
E	Introducing Contraband 3 (9A.76.160)	E			
B +	Intimidating a Public Servant (9A.76.180)	C +	B	Possession of Stolen Property 1 (9A.56.150)	C
B +	Intimidating a Witness (9A.72.110)				
		+	C	Possession of Stolen Property 2 (9A.56.160)	D
	Public Disturbance				
C +	Riot with Weapon (9A.84.010(2)(b))	D +	D	Possession of Stolen Property 3 (9A.56.170)	E
D +	Riot Without Weapon (9A.84.010(2)(a))	E	((€))	Taking Motor Vehicle Without Permission	((⊘))
E	Failure to Disperse (9A.84.020)	E	<u>B</u>	1 ((and 2)) (9A.56.070 ((and 9A.56.075)))	<u>C</u>
E	Disorderly Conduct (9A.84.030)	E			
			<u>C</u>	<u>Taking Motor Vehicle Without Permission</u>	<u>D</u>
	Sex Crimes			<u>2 (9A.56.075)</u>	
A	Rape 1 (9A.44.040)	B +	<u>B</u>	<u>Theft of a Motor Vehicle (section 2 of this act)</u>	<u>C</u>
A-	Rape 2 (9A.44.050)	B +			
C +	Rape 3 (9A.44.060)	D +		Motor Vehicle Related Crimes	
A-	Rape of a Child 1 (9A.44.073)	B +	E	Driving Without a License (46.20.005)	E
B +	Rape of a Child 2 (9A.44.076)	C +	B +	Hit and Run - Death (46.52.020(4)(a))	C +
B	Incest 1 (9A.64.020(1))	C	C	Hit and Run - Injury (46.52.020(4)(b))	D
C	Incest 2 (9A.64.020(2))	D	D	Hit and Run-Attended (46.52.020(5))	E
D +	Indecent Exposure (Victim <14) (9A.88.010)	E	E	Hit and Run-Unattended (46.52.010)	E
E	Indecent Exposure (Victim 14 or over) (9A.88.010)	E	C	Vehicular Assault (46.61.522)	D
B +	Promoting Prostitution 1 (9A.88.070)	C +	C	Attempting to Elude Pursuing Police Vehicle (46.61.024)	D
C +	Promoting Prostitution 2 (9A.88.080)	D +	E	Reckless Driving (46.61.500)	E
E	O & A (Prostitution) (9A.88.030)	E	D	Driving While Under the Influence (46.61.502 and 46.61.504)	E
B +	Indecent Liberties (9A.44.100)	C +			
A-	Child Molestation 1 (9A.44.083)	B +	B +	Felony Driving While Under the Influence (46.61.502(6))	B
B	Child Molestation 2 (9A.44.086)	C +	B +	Felony Physical Control of a Vehicle While Under the Influence (46.61.504(6))	B
				Other	
B	Theft 1 (9A.56.030)	C		Animal Cruelty 1 (16.52.205)	C
C	Theft 2 (9A.56.040)	D	B	Bomb Threat (9.61.160)	C
D	Theft 3 (9A.56.050)	E	B	Escape 1 ¹ (9A.76.110)	C
B	Theft of Livestock 1 and 2 (9A.56.080 and 9A.56.083)	C	C	Escape 2 ¹ (9A.76.120)	C
C	Forgery (9A.60.020)	D	D	Escape 3 (9A.76.130)	E
A	Robbery 1 (9A.56.200)	B +	E	Obscene, Harassing, Etc., Phone Calls (9.61.230)	E
B +	Robbery 2 (9A.56.210)	C +			
B +	Extortion 1 (9A.56.120)	C +	A	Other Offense Equivalent to an Adult Class A Felony	B +
C +	Extortion 2 (9A.56.130)	D +			
C	Identity Theft 1 (9.35.020(2))	D	B	Other Offense Equivalent to an Adult Class B Felony	C
D	Identity Theft 2 (9.35.020(3))	E			
D	Improperly Obtaining Financial Information (9.35.010)	E	C	Other Offense Equivalent to an Adult Class C Felony	D

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- D Other Offense Equivalent to an Adult
Gross Misdemeanor E
- E Other Offense Equivalent to an Adult
Misdemeanor E
- V Violation of Order of Restitution,
Community Supervision, or Confinement
(13.40.200)2 V

1Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

1st escape or attempted escape during 12-month period - 4 weeks confinement

2nd escape or attempted escape during 12-month period - 8 weeks confinement

3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

2If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

JUVENILE SENTENCING STANDARDS

This schedule must be used for juvenile offenders. The court may select sentencing option A, B, C, D, or RCW 13.40.167.

**OPTION A
JUVENILE OFFENDER SENTENCING GRID
STANDARD RANGE**

<hr/>						
	A +	180 WEEKS TO AGE 21 YEARS				
	A	103 WEEKS TO 129 WEEKS				
	A-	15-36 WEEKS	52-65 WEEKS	80-100 WEEKS	103-129 WEEKS	
		EXCEPT 30-40 WEEKS FOR 15-17 YEAR OLDS				
Current Offense Category	B +	15-36 WEEKS		52-65 WEEKS	80-100 WEEKS	103-129 WEEKS
	B	LOCAL SANCTIONS (LS)		15-36 WEEKS		52-65 WEEKS
	C +	LS			15-36 WEEKS	
	C	LS				15-36 WEEKS

Local Sanctions:

		0 to 30 Days
D +	LS	0 to 12 Months Community Supervision
		0 to 150 Hours Community Restitution
D	LS	\$0 to \$500 Fine
E	LS	
		0 1 2 3 4 or more
PRIOR ADJUDICATIONS		

NOTE: References in the grid to days or weeks mean periods of confinement.

(1) The vertical axis of the grid is the current offense category. The current offense category is determined by the offense of adjudication.

(2) The horizontal axis of the grid is the number of prior adjudications included in the juvenile's criminal history. Each prior felony adjudication shall count as one point. Each prior violation, misdemeanor, and gross misdemeanor adjudication shall count as 1/4 point. Fractional points shall be rounded down.

(3) The standard range disposition for each offense is determined by the intersection of the column defined by the prior adjudications and the row defined by the current offense category.

(4) RCW 13.40.180 applies if the offender is being sentenced for more than one offense.

(5) A current offense that is a violation is equivalent to an offense category of E. However, a disposition for a violation shall not include confinement.

**OR
OPTION B
SUSPENDED DISPOSITION ALTERNATIVE**

(1) If the offender is subject to a standard range disposition involving confinement by the department, the court may impose the standard range and suspend the disposition on condition that the offender comply with one or more local sanctions and any educational or treatment requirement. The treatment programs provided to the offender must be research-based best practice programs as identified by the Washington state institute for public policy or the joint legislative audit and review committee.

(2) 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.

(3) An offender is ineligible for the suspended disposition option under this section if the offender is:

- (a) Adjudicated of an A + offense;
- (b) Fourteen years of age or older and is adjudicated of one or more of the following offenses:
 - (i) A class A offense, or an attempt, conspiracy, or solicitation to commit a class A offense;
 - (ii) Manslaughter in the first degree (RCW 9A.32.060); or
 - (iii) Assault in the second degree (RCW 9A.36.021), extortion in the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW 9A.40.030), robbery in the second degree (RCW 9A.56.210), residential burglary (RCW 9A.52.025), burglary in the second degree (RCW 9A.52.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), intimidating a witness (RCW 9A.72.110), violation of the uniform controlled substances act (RCW 69.50.401 (2)(a) and (b)), or manslaughter 2 (RCW 9A.32.070), 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;

(c) Ordered to serve a disposition for a firearm violation under RCW 13.40.193; or

(d) Adjudicated of a sex offense as defined in RCW 9.94A.030.

**OR
OPTION C
CHEMICAL DEPENDENCY DISPOSITION
ALTERNATIVE**

If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed an A- or B+ offense, the court may impose a disposition under RCW 13.40.160(4) and 13.40.165.

**OR
OPTION D
MANIFEST INJUSTICE**

If the court determines that a disposition under option A, B, or C would effectuate a manifest injustice, the court shall impose a disposition outside the standard range under RCW 13.40.160(2).

NEW SECTION. Sec. 12. A new section is added to chapter 13.40 RCW to read as follows:

If a juvenile is adjudicated of theft of a motor vehicle under section 2 of this act, possession of a stolen vehicle under section 5 of this act, taking a motor vehicle without permission in the first degree as defined in RCW 9A.56.070(1), or taking a motor vehicle without permission in the second degree as defined in RCW 9A.56.075(1) and is sentenced to local sanctions, the juvenile's disposition shall include an evaluation to determine whether the juvenile is in need of community-based rehabilitation services and to complete any treatment recommended by the evaluation.

Sec. 13. RCW 13.40.210 and 2002 c 175 s 27 are each amended to read as follows:

(1) The secretary shall set a release date for each juvenile committed to its custody. The release date shall be within the prescribed range to which a juvenile has been committed under RCW 13.40.0357 or 13.40.030 except as provided in RCW 13.40.320 concerning offenders the department determines are eligible for the juvenile offender basic training camp program. Such dates shall be determined prior to the expiration of sixty percent of a juvenile's minimum term of confinement included within the prescribed range to which the juvenile has been committed. The secretary shall release any juvenile committed to the custody of the department within four calendar days prior to the juvenile's release date or on the release date set under this chapter. Days spent in the custody of the department shall be tolled by any period of time during which a juvenile has absented himself or herself from the department's supervision without the prior approval of the secretary or the secretary's designee.

(2) The secretary shall monitor the average daily population of the state's juvenile residential facilities. When the secretary concludes that in-residence population of residential facilities

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exceeds one hundred five percent of the rated bed capacity specified in statute, or in absence of such specification, as specified by the department in rule, the secretary may recommend reductions to the governor. On certification by the governor that the recommended reductions are necessary, the secretary has authority to administratively release a sufficient number of offenders to reduce in-residence population to one hundred percent of rated bed capacity. The secretary shall release those offenders who have served the greatest proportion of their sentence. However, the secretary may deny release in a particular case at the request of an offender, or if the secretary finds that there is no responsible custodian, as determined by the department, to whom to release the offender, or if the release of the offender would pose a clear danger to society. The department shall notify the committing court of the release at the time of release if any such early releases have occurred as a result of excessive in-residence population. In no event shall an offender adjudicated of a violent offense be granted release under the provisions of this subsection.

(3)(a) Following the release of any juvenile under subsection (1) of this section, the secretary may require the juvenile to comply with a program of parole to be administered by the department in his or her community which shall last no longer than eighteen months, except that in the case of a juvenile sentenced for rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, or indecent liberties with forcible compulsion, the period of parole shall be twenty-four months and, in the discretion of the secretary, may be up to thirty-six months when the secretary finds that an additional period of parole is necessary and appropriate in the interests of public safety or to meet the ongoing needs of the juvenile. A parole program is mandatory for offenders released under subsection (2) of this section and for offenders who receive a juvenile residential commitment sentence of theft of a motor vehicle 1, possession of a stolen motor vehicle, or taking a motor vehicle without permission 1. The decision to place an offender on parole shall be based on an assessment by the department of the offender's risk for reoffending upon release. The department shall prioritize available parole resources to provide supervision and services to offenders at moderate to high risk for reoffending.

(b) The secretary shall, for the period of parole, facilitate the juvenile's reintegration into his or her community and to further this goal shall require the juvenile to refrain from possessing a firearm or using a deadly weapon and refrain from committing new offenses and may require the juvenile to: (i) Undergo available medical, psychiatric, drug and alcohol, sex offender, mental health, and other offense-related treatment services; (ii) report as directed to a parole officer and/or designee; (iii) pursue a course of study, vocational training, or employment; (iv) notify the parole officer of the current address where he or she resides; (v) be present at a particular address during specified hours; (vi) remain within prescribed geographical boundaries; (vii) submit to electronic monitoring; (viii) refrain from using illegal drugs and alcohol, and submit to random urinalysis when requested by the assigned parole officer; (ix) refrain from contact with specific individuals or a specified class of individuals; (x) meet other conditions determined by the parole officer to further enhance the juvenile's reintegration into the community; (xi) pay any court-ordered fines or restitution; and (xii) perform community restitution. Community restitution for the purpose of this section means compulsory service, without compensation, performed for the benefit of the community by the offender. Community restitution may be performed through public or private organizations or through work crews.

(c) The secretary may further require up to twenty-five percent of the highest risk juvenile offenders who are placed on parole to participate in an intensive supervision program. Offenders participating in an intensive supervision program shall be required to comply with all terms and conditions listed in (b) of this subsection and shall also be required to comply with the following additional terms and conditions: (i) Obey all laws and refrain from any conduct that threatens public safety; (ii) report at least once a week to an assigned community case manager; and (iii) meet all other requirements imposed by the

community case manager related to participating in the intensive supervision program. As a part of the intensive supervision program, the secretary may require day reporting.

(d) After termination of the parole period, the juvenile shall be discharged from the department's supervision.

(4)(a) The department may also modify parole for violation thereof. If, after affording a juvenile all of the due process rights to which he or she would be entitled if the juvenile were an adult, the secretary finds that a juvenile has violated a condition of his or her parole, the secretary shall order one of the following which is reasonably likely to effectuate the purpose of the parole and to protect the public: (i) Continued supervision under the same conditions previously imposed; (ii) intensified supervision with increased reporting requirements; (iii) additional conditions of supervision authorized by this chapter; (iv) except as provided in (a)(v) and (vi) of this subsection, imposition of a period of confinement not to exceed thirty days in a facility operated by or pursuant to a contract with the state of Washington or any city or county for a portion of each day or for a certain number of days each week with the balance of the days or weeks spent under supervision; (v) the secretary may order any of the conditions or may return the offender to confinement for the remainder of the sentence range if the offense for which the offender was sentenced is rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, indecent liberties with forcible compulsion, or a sex offense that is also a serious violent offense as defined by RCW 9.94A.030; and (vi) the secretary may order any of the conditions or may return the offender to confinement for the remainder of the sentence range if the youth has completed the basic training camp program as described in RCW 13.40.320.

(b) If the department finds that any juvenile in a program of parole has possessed a firearm or used a deadly weapon during the program of parole, the department shall modify the parole under (a) of this subsection and confine the juvenile for at least thirty days. Confinement shall be in a facility operated by or pursuant to a contract with the state or any county.

(5) A parole officer of the department of social and health services shall have the power to arrest a juvenile under his or her supervision on the same grounds as a law enforcement officer would be authorized to arrest the person.

(6) If so requested and approved under chapter 13.06 RCW, the secretary shall permit a county or group of counties to perform functions under subsections (3) through (5) of this section.

Sec. 14. RCW 13.40.160 and 2004 c 120 s 4 and 2004 c 38 s 11 are each reenacted and amended to read as follows:

(1) The standard range disposition for a juvenile adjudicated of an offense is determined according to RCW 13.40.0357.

(a) When the court sentences an offender to a local sanction as provided in RCW 13.40.0357 option A, the court shall impose a determinate disposition within the standard ranges, except as provided in subsection (2), (3), (4), (5), or (6) of this section. The disposition may be comprised of one or more local sanctions.

(b) When the court sentences an offender to a standard range as provided in RCW 13.40.0357 option A that includes a term of confinement exceeding thirty days, commitment shall be to the department for the standard range of confinement, except as provided in subsection (2), (3), (4), (5), or (6) of this section.

(2) If the court concludes, and enters reasons for its conclusion, that disposition within the standard range would effectuate a manifest injustice the court shall impose a disposition outside the standard range, as indicated in option D of RCW 13.40.0357. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

A disposition outside the standard range shall be determinate and shall be comprised of confinement or community supervision, or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding thirty days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range. A disposition outside the standard range is appealable under RCW

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13.40.230 by the state or the respondent. A disposition within the standard range is not appealable under RCW 13.40.230.

(3) When a juvenile offender is found to have committed a sex offense, other than a sex offense that is also a serious violent offense as defined by RCW 9.94A.030, and has no history of a prior sex offense, the court, on its own motion or the motion of the state or the respondent, may order an examination to determine whether the respondent is amenable to treatment.

The report of the examination shall include at a minimum the following: The respondent's version of the facts and the official version of the facts, the respondent's offense history, an assessment of problems in addition to alleged deviant behaviors, the respondent's social, educational, and employment situation, and other evaluation measures used. The report shall set forth the sources of the evaluator's information.

The examiner shall assess and report regarding the respondent's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

- (a)(i) Frequency and type of contact between the offender and therapist;
- (ii) Specific issues to be addressed in the treatment and description of planned treatment modalities;
- (iii) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members, legal guardians, or others;
- (iv) Anticipated length of treatment; and
- (v) Recommended crime-related prohibitions.

The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The evaluator shall be selected by the party making the motion. The defendant shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

After receipt of reports of the examination, the court shall then consider whether the offender and the community will benefit from use of this special sex offender disposition alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this section. If the court determines that this special sex offender disposition alternative is appropriate, then the court shall impose a determinate disposition within the standard range for the offense, or if the court concludes, and enters reasons for its conclusions, that such disposition would cause a manifest injustice, the court shall impose a disposition under option D, and the court may suspend the execution of the disposition and place the offender on community supervision for at least two years. As a condition of the suspended disposition, the court may impose the conditions of community supervision and other conditions, including up to thirty days of confinement and requirements that the offender do any one or more of the following:

- (b)(i) Devote time to a specific education, employment, or occupation;
- (ii) Undergo available outpatient sex offender treatment for up to two years, or inpatient sex offender treatment not to exceed the standard range of confinement for that offense. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment. The respondent shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, the probation counselor, and the court, and shall not change providers without court approval after a hearing if the prosecutor or probation counselor object to the change;
- (iii) Remain within prescribed geographical boundaries and notify the court or the probation counselor prior to any change in the offender's address, educational program, or employment;
- (iv) Report to the prosecutor and the probation counselor prior to any change in a sex offender treatment provider. This change shall have prior approval by the court;
- (v) Report as directed to the court and a probation counselor;

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(vi) Pay all court-ordered legal financial obligations, perform community restitution, or any combination thereof;

(vii) Make restitution to the victim for the cost of any counseling reasonably related to the offense;

(viii) Comply with the conditions of any court-ordered probation bond; or

(ix) The court shall order that the offender shall not attend the public or approved private elementary, middle, or high school attended by the victim or the victim's siblings. The parents or legal guardians of the offender are responsible for transportation or other costs associated with the offender's change of school that would otherwise be paid by the school district. The court shall send notice of the disposition and restriction on attending the same school as the victim or victim's siblings to the public or approved private school the juvenile will attend, if known, or if unknown, to the approved private schools and the public school district board of directors of the district in which the juvenile resides or intends to reside. This notice must be sent at the earliest possible date but not later than ten calendar days after entry of the disposition.

The sex offender treatment provider shall submit quarterly reports on the respondent's progress in treatment to the court and the parties. The reports shall reference the treatment plan and include at a minimum the following: Dates of attendance, respondent's compliance with requirements, treatment activities, the respondent's relative progress in treatment, and any other material specified by the court at the time of the disposition.

At the time of the disposition, the court may set treatment review hearings as the court considers appropriate.

Except as provided in this subsection (3), after July 1, 1991, examinations and treatment ordered pursuant to this subsection shall only be conducted by certified sex offender treatment providers or certified affiliate sex offender treatment providers under chapter 18.155 RCW. A sex offender therapist who examines or treats a juvenile sex offender pursuant to this subsection does not have to be certified by the department of health pursuant to chapter 18.155 RCW if the court finds that: (A) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; (B) no certified sex offender treatment providers or certified affiliate sex offender treatment providers are available for treatment within a reasonable geographical distance of the offender's home; and (C) the evaluation and treatment plan comply with this subsection (3) and the rules adopted by the department of health.

If the offender violates any condition of the disposition or the court finds that the respondent is failing to make satisfactory progress in treatment, the court may revoke the suspension and order execution of the disposition or the court may impose a penalty of up to thirty days' confinement for violating conditions of the disposition. The court may order both execution of the disposition and up to thirty days' confinement for the violation of the conditions of the disposition. The court shall give credit for any confinement time previously served if that confinement was for the offense for which the suspension is being revoked.

For purposes of this section, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged. "Victim" may also include a known parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

A disposition entered under this subsection (3) is not appealable under RCW 13.40.230.

(4) If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed an A- or B+ offense, the court may impose the disposition alternative under RCW 13.40.165.

(5) If a juvenile is subject to a commitment of 15 to 65 weeks of confinement, the court may impose the disposition alternative under RCW 13.40.167.

(6) When the offender is subject to a standard range commitment of 15 to 36 weeks and is ineligible for a suspended disposition alternative, a manifest injustice disposition below the standard range, special sex offender disposition alternative, chemical dependency disposition alternative, or mental health

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disposition alternative, the court in a county with a pilot program under RCW 13.40.169 may impose the disposition alternative under RCW 13.40.169.

(7) RCW 13.40.193 shall govern the disposition of any juvenile adjudicated of possessing a firearm in violation of RCW 9A.41.040(2)(a)(iii) or any crime in which a special finding is entered that the juvenile was armed with a firearm.

(8) Section 15 of this act shall govern the disposition of any juvenile adjudicated of theft of a motor vehicle as defined under section 2 of this act, possession of a stolen motor vehicle as defined under section 5 of this act, taking a motor vehicle without permission in the first degree under RCW 9A.56.070, and taking a motor vehicle without permission in the second degree under RCW 9A.56.075.

(9) Whenever a juvenile offender is entitled to credit for time spent in detention prior to a dispositional order, the dispositional order shall specifically state the number of days of credit for time served.

~~((9))~~ (10) Except as provided under subsection (3), (4), (5), or (6) of this section, or option B of RCW 13.40.0357, or RCW 13.40.127, the court shall not suspend or defer the imposition or the execution of the disposition.

~~((10))~~ (11) In no case shall the term of confinement imposed by the court at disposition exceed that to which an adult could be subjected for the same offense.

NEW SECTION. Sec. 15. A new section is added to chapter 13.40 RCW to read as follows:

(1) If a respondent is adjudicated of taking a motor vehicle without permission in the first degree as defined in RCW 9A.56.070, the court shall impose the following minimum sentence, in addition to any restitution the court may order payable to the victim:

(a) Juveniles with a prior criminal history score of zero to one-half points shall be sentenced to a standard range sentence that includes no less than five days of home detention, forty-five hours of community restitution, and a two hundred dollar fine;

(b) Juveniles with a prior criminal history score of three-quarters to one and one-half points shall be sentenced to standard range sentence that includes no less than ten days of detention, ninety hours of community restitution, and a four hundred dollar fine; and

(c) Juveniles with a prior criminal history score of two or more points shall be sentenced to no less than fifteen to thirty-six weeks of confinement, seven days of home detention, four months of supervision, ninety hours of community restitution, and a four hundred dollar fine.

(2) If a respondent is adjudicated of theft of a motor vehicle as defined under section 2 of this act, or possession of a stolen vehicle as defined under section 5 of this act, the court shall impose the following minimum sentence, in addition to any restitution the court may order payable to the victim:

(a) Juveniles with a prior criminal history score of zero to one-half points shall be sentenced to a standard range sentence that includes either: (i) No less than five days of home detention and forty-five hours of community restitution; or (ii) no home detention and ninety hours of community restitution;

(b) Juveniles with a prior criminal history score of three-quarters to one and one-half points shall be sentenced to standard range sentence that includes no less than ten days of detention, ninety hours of community restitution, and a four hundred dollar fine; and

(c) Juveniles with a prior criminal history score of two or more points shall be sentenced to no less than fifteen to thirty-six weeks of confinement, seven days of home detention, four months of supervision, ninety hours of community restitution, and a four hundred dollar fine.

(3) If a respondent is adjudicated of taking a motor vehicle without permission in the second degree as defined in RCW 9A.56.075, the court shall impose a standard range as follows:

(a) Juveniles with a prior criminal history score of zero to one-half points shall be sentenced to a standard range sentence that includes either: (i) No less than one day of home detention, one month of supervision, and fifteen hours of community restitution; or (ii) no home detention, one month of supervision, and thirty hours of community restitution;

(b) Juveniles with a prior criminal history score of three-quarters to one and one-half points shall be sentenced to a standard range sentence that includes no less than one day of detention, two days of home detention, two months of supervision, thirty hours of community restitution, and a one hundred fifty dollar fine; and

(c) Juveniles with a prior criminal history score of two or more points shall be sentenced to no less than three days of detention, seven days of home detention, three months of supervision, forty-five hours of community restitution, and a one hundred fifty dollar fine.

Sec. 16. RCW 9A.56.070 and 2003 c 53 s 72 are each amended to read as follows:

(1) A person is guilty of taking a motor vehicle without permission in the first degree if he or she, without the permission of the owner or person entitled to possession, intentionally takes or drives away an automobile or motor vehicle, whether propelled by steam, electricity, or internal combustion engine, that is the property of another, and he or she:

(a) Alters the motor vehicle for the purpose of changing its appearance or primary identification, including obscuring, removing, or changing the manufacturer's serial number or the vehicle identification number plates;

(b) Removes, or participates in the removal of, parts from the motor vehicle with the intent to sell the parts;

(c) Exports, or attempts to export, the motor vehicle across state lines or out of the United States for profit;

(d) Intends to sell the motor vehicle; or

(e) Is engaged in a conspiracy and the central object of the conspiratorial agreement is the theft of motor vehicles for sale to others for profit or is engaged in a conspiracy and has solicited a juvenile to participate in the theft of a motor vehicle.

(2) Taking a motor vehicle without permission in the first degree is a class B felony.

Sec. 17. RCW 9A.56.096 and 2003 c 53 s 77 are each amended to read as follows:

(1) A person who, with intent to deprive the owner or owner's agent, wrongfully obtains, or exerts unauthorized control over, or by color or aid of deception gains control of personal property that is rented ~~((or))~~, leased, or loaned by written agreement to the person, is guilty of theft of rental, leased, ~~((or))~~ lease-purchased, or loaned property.

(2) The finder of fact may presume intent to deprive if the finder of fact finds either of the following:

(a) That the person who rented or leased the property failed to return or make arrangements acceptable to the owner of the property or the owner's agent to return the property to the owner or the owner's agent within seventy-two hours after receipt of proper notice following the due date of the rental, lease, ~~((or))~~ lease-purchase, or loan agreement; or

(b) That the renter ~~((or))~~, lessee, or borrower presented identification to the owner or the owner's agent that was materially false, fictitious, or not current with respect to name, address, place of employment, or other appropriate items.

(3) As used in subsection (2) of this section, "proper notice" consists of a written demand by the owner or the owner's agent made after the due date of the rental, lease, ~~((or))~~ lease-purchase, or loan period, mailed by certified or registered mail to the renter ~~((or))~~, lessee, or borrower at: (a) The address the renter ~~((or))~~, lessee, or borrower gave when the contract was made; or (b) the renter ~~((or))~~, lessee's, or borrower's last known address if later furnished in writing by the renter, lessee, borrower, or the agent of the renter ~~((or))~~, lessee, or borrower.

(4) The replacement value of the property obtained must be utilized in determining the amount involved in the theft of rental, leased, ~~((or))~~ lease-purchased, or loaned property.

(5)(a) Theft of rental, leased, ~~((or))~~ lease-purchased, or loaned property is a class B felony if the rental, leased, ~~((or))~~ lease-purchased, or loaned property is valued at one thousand five hundred dollars or more.

(b) Theft of rental, leased, ~~((or))~~ lease-purchased, or loaned property is a class C felony if the rental, leased, ~~((or))~~ lease-purchased, or loaned property is valued at two hundred fifty dollars or more but less than one thousand five hundred dollars.

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(c) Theft of rental, leased, ~~((or))~~ lease-purchased, or loaned property is a gross misdemeanor if the rental, leased, ~~((or))~~ lease-purchased, or loaned property is valued at less than two hundred fifty dollars.

(6) This section applies to rental agreements that provide that the renter may return the property any time within the rental period and pay only for the time the renter actually retained the property, in addition to any minimum rental fee, to lease agreements, ~~((and))~~ to lease-purchase agreements as defined under RCW 63.19.010, and to vehicles loaned to prospective purchasers borrowing a vehicle by written agreement from a motor vehicle dealer licensed under chapter 46.70 RCW. This section does not apply to rental or leasing of real property under the residential landlord-tenant act, chapter 59.18 RCW.

NEW SECTION. Sec. 18. A new section is added to chapter 9A.56 RCW to read as follows:

(1) Any person who makes or mends, or causes to be made or mended, uses, or has in his or her possession any motor vehicle theft tool, that is adapted, designed, or commonly used for the commission of motor vehicle related theft, under circumstances evincing an intent to use or employ, or allow the same to be used or employed, in the commission of motor vehicle theft, or knowing that the same is intended to be so used, is guilty of making or having motor vehicle theft tools.

(2) For the purpose of this section, motor vehicle theft tool includes, but is not limited to, the following: Slim jim, false master key, master purpose key, altered or shaved key, trial or jiggle key, slide hammer, lock puller, picklock, bit, nipper, any other implement shown by facts and circumstances that is intended to be used in the commission of a motor vehicle related theft, or knowing that the same is intended to be so used.

(3) For the purposes of this section, the following definitions apply:

(a) "False master" or "master key" is any key or other device made or altered to fit locks or ignitions of multiple vehicles, or vehicles other than that for which the key was originally manufactured.

(b) "Altered or shaved key" is any key so altered, by cutting, filing, or other means, to fit multiple vehicles or vehicles other than the vehicles for which the key was originally manufactured.

(c) "Trial keys" or "jiggle keys" are keys or sets designed or altered to manipulate a vehicle locking mechanism other than the lock for which the key was originally manufactured.

(4) Making or having motor vehicle theft tools is a gross misdemeanor.

NEW SECTION. Sec. 19. A new section is added to chapter 36.28A RCW to read as follows:

There is hereby created in the Washington association of sheriffs and police chiefs the Washington auto theft prevention authority which shall be under the direction of the executive director of the Washington association of sheriffs and police chiefs.

NEW SECTION. Sec. 20. (1) The Washington auto theft prevention authority is established. The authority shall consist of the following members, appointed by the governor:

(a) The executive director of the Washington association of sheriffs and police chiefs, or the executive director's designee;

(b) The chief of the Washington state patrol, or the chief's designee;

(c) Two police chiefs;

(d) Two sheriffs;

(e) One prosecuting attorney;

(f) A representative from the insurance industry who is responsible for writing property and casualty liability insurance in the state of Washington;

(g) A representative from the automobile industry; and

(h) One member of the general public.

(2) In addition, the authority may, where feasible, consult with other governmental entities or individuals from the public and private sector in carrying out its duties under this section.

NEW SECTION. Sec. 21. (1) The Washington auto theft prevention authority shall initially convene at the call of the executive director of the Washington association of sheriffs and police chiefs, or the executive director's designee, no later than

the third Monday in January 2008. Subsequent meetings of the authority shall be at the call of the chair or seven members.

(2) The authority shall annually elect a chairperson and other such officers as it deems appropriate from its membership.

(3) Members of the authority shall serve terms of four years each on a staggered schedule to be established by the first authority. For purposes of initiating a staggered schedule of terms, some members of the first authority may initially serve two years and some members may initially serve four years.

NEW SECTION. Sec. 22. (1) The Washington auto theft prevention authority may obtain or contract for staff services, including an executive director, and any facilities and equipment as the authority requires to carry out its duties.

(2) The director may enter into contracts with any public or private organization to carry out the purposes of this section and sections 20, 21, and 23 through 27 of this act.

(3) The authority shall review and make recommendations to the legislature and the governor regarding motor vehicle theft in Washington state. In preparing the recommendations, the authority shall, at a minimum, review the following issues:

(a) Determine the scope of the problem of motor vehicle theft, including:

(i) Particular areas of the state where the problem is the greatest;

(ii) Annual data reported by local law enforcement regarding the number of reported thefts, investigations, recovered vehicles, arrests, and convictions; and

(iii) An assessment of estimated funds needed to hire sufficient investigators to respond to all reported thefts.

(b) Analyze the various methods of combating the problem of motor vehicle theft;

(c) Develop and implement a plan of operation; and

(d) Develop and implement a financial plan.

(4) The authority is not a law enforcement agency and may not gather, collect, or disseminate intelligence information for the purpose of investigating specific crimes or pursuing or capturing specific perpetrators. Members of the authority may not exercise general authority peace officer powers while acting in their capacity as members of the authority, unless the exercise of peace officer powers is necessary to prevent an imminent threat to persons or property.

(5) The authority shall annually report its activities, findings, and recommendations during the preceding year to the legislature by December 31st.

NEW SECTION. Sec. 23. The Washington auto theft prevention authority may solicit and accept gifts, grants, bequests, devises, or other funds from public and private sources to support its activities.

NEW SECTION. Sec. 24. The governor may remove any member of the Washington auto theft prevention authority for cause including but not limited to neglect of duty, misconduct, malfeasance or misfeasance in office, or upon written request of two-thirds of the members of the authority under this chapter. Upon the death, resignation, or removal of a member, the governor shall appoint a replacement to fill the remainder of the unexpired term.

NEW SECTION. Sec. 25. Members of the Washington auto theft prevention authority who are not public employees shall be compensated in accordance with RCW 43.03.250 and shall be reimbursed for travel expenses incurred in carrying out the duties of the authority in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 26. Any member serving in their official capacity on the Washington auto theft prevention authority, or either their employer or employers, or other entity that selected the members to serve, are immune from a civil action based upon an act performed in good faith.

NEW SECTION. Sec. 27. (1) The Washington auto theft prevention authority account is created in the state treasury, subject to appropriation. All revenues from the traffic infraction surcharge in RCW 46.63.110(7)(b) and all receipts from gifts, grants, bequests, devises, or other funds from public and private sources to support the activities of the auto theft prevention authority must be deposited into the account. Expenditures

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from the account may be used only for activities relating to motor vehicle theft, including education, prevention, law enforcement, investigation, prosecution, and confinement.

(2) The authority shall allocate moneys appropriated from the account to public agencies for the purpose of establishing, maintaining, and supporting programs that are designed to prevent motor vehicle theft, including:

(a) Financial support to prosecution agencies to increase the effectiveness of motor vehicle theft prosecution;

(b) Financial support to a unit of local government or a team consisting of units of local governments to increase the effectiveness of motor vehicle theft enforcement;

(c) Financial support for the procurement of equipment and technologies for use by law enforcement agencies for the purpose of enforcing motor vehicle theft laws; and

(d) Financial support for programs that are designed to educate and assist the public in the prevention of motor vehicle theft.

(3) The costs of administration shall not exceed ten percent of the moneys in the account in any one year so that the greatest possible portion of the moneys available to the authority is expended on combating motor vehicle theft.

(4) Prior to awarding any moneys from the Washington auto theft prevention authority account for motor vehicle theft enforcement, the auto theft prevention authority must verify that the financial award includes sufficient funding to cover proposed activities, which include, but are not limited to: (a) State, municipal, and county offender and juvenile confinement costs; (b) administration costs; (c) law enforcement costs; (d) prosecutor costs; and (e) court costs, with a priority being given to ensuring that sufficient funding is available to cover state, municipal, and county offender and juvenile confinement costs.

(5) Moneys expended from the Washington auto theft prevention authority account under subsection (2) of this section shall be used to supplement, not supplant, other moneys that are available for motor vehicle theft prevention.

(6) Grants provided under subsection (2) of this section constitute reimbursement for purposes of RCW 43.135.060(1).

Sec. 28. RCW 46.63.110 and 2005 c 413 s 2, 2005 c 320 s 2, and 2005 c 288 s 8 are each reenacted and amended to read as follows:

(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is five hundred dollars for each offense. No penalty assessed under this subsection (2) may be reduced.

(3) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(4) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(5) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(6) Whenever a monetary penalty, fee, cost, assessment, or other monetary obligation is imposed by a court under this chapter it is immediately payable. If the court determines, in its

discretion, that a person is not able to pay a monetary obligation in full, and not more than one year has passed since the later of July 1, 2005, or the date the monetary obligation initially became due and payable, the court shall enter into a payment plan with the person, unless the person has previously been granted a payment plan with respect to the same monetary obligation, or unless the person is in noncompliance of any existing or prior payment plan, in which case the court may, at its discretion, implement a payment plan. If the court has notified the department that the person has failed to pay or comply and the person has subsequently entered into a payment plan and made an initial payment, the court shall notify the department that the infraction has been adjudicated, and the department shall rescind any suspension of the person's driver's license or driver's privilege based on failure to respond to that infraction. "Payment plan," as used in this section, means a plan that requires reasonable payments based on the financial ability of the person to pay. The person may voluntarily pay an amount at any time in addition to the payments required under the payment plan.

(a) If a payment required to be made under the payment plan is delinquent or the person fails to complete a community restitution program on or before the time established under the payment plan, unless the court determines good cause therefor and adjusts the payment plan or the community restitution plan accordingly, the court shall notify the department of the person's failure to meet the conditions of the plan, and the department shall suspend the person's driver's license or driving privilege until all monetary obligations, including those imposed under subsections (3) and (4) of this section, have been paid, and court authorized community restitution has been completed, or until the department has been notified that the court has entered into a new time payment or community restitution agreement with the person.

(b) If a person has not entered into a payment plan with the court and has not paid the monetary obligation in full on or before the time established for payment, the court shall notify the department of the delinquency. The department shall suspend the person's driver's license or driving privilege until all monetary obligations have been paid, including those imposed under subsections (3) and (4) of this section, or until the person has entered into a payment plan under this section.

(c) If the payment plan is to be administered by the court, the court may assess the person a reasonable administrative fee to be wholly retained by the city or county with jurisdiction. The administrative fee shall not exceed ten dollars per infraction or twenty-five dollars per payment plan, whichever is less.

(d) Nothing in this section precludes a court from contracting with outside entities to administer its payment plan system. When outside entities are used for the administration of a payment plan, the court may assess the person a reasonable fee for such administrative services, which fee may be calculated on a periodic, percentage, or other basis.

(e) If a court authorized community restitution program for offenders is available in the jurisdiction, the court may allow conversion of all or part of the monetary obligations due under this section to court authorized community restitution in lieu of time payments if the person is unable to make reasonable time payments.

(7) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed:

(a) A fee of five dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040; and

(b) A fee of ten dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the Washington auto theft prevention authority account.

(8)(a) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction

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other than of RCW 46.61.527 shall be assessed an additional penalty of twenty dollars. The court may not reduce, waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a court authorized community restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of the penalty due under this subsection (8) by participation in the court authorized community restitution program.

(b) Eight dollars and fifty cents of the additional penalty under (a) of this subsection shall be remitted to the state treasurer. The remaining revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited as provided in RCW 43.08.250. The balance of the revenue received by the county or city treasurer under this subsection must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060.

(9) If a legal proceeding, such as garnishment, has commenced to collect any delinquent amount owed by the person for any penalty imposed by the court under this section, the court may, at its discretion, enter into a payment plan.

(10) The monetary penalty for violating RCW 46.37.395 is: (a) Two hundred fifty dollars for the first violation; (b) five hundred dollars for the second violation; and (c) seven hundred fifty dollars for each violation thereafter.

NEW SECTION. Sec. 29. This act shall be known as the Elizabeth Nowak-Washington auto theft prevention act.

NEW SECTION. Sec. 30. Sections 20 through 27 of this act constitute a new chapter in Title 46 RCW."

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

PARLIAMENTARY INQUIRY

Senator Roach: "Would Senator Kline yield to a question? There are actually two amendments. That one was a striker out of Judiciary and one was a striker out of Ways & Means. From the reader board, it just says committee amendment striker. My question to the previous speaker is, which striker is this, Ways & Means or Judiciary?"

Senator Kline: "This is the Ways & Means striker."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Third Substitute House Bill No. 1001.

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

MOTION

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

On page 1, line 1 of the title, after "theft;" strike the remainder of the title and insert "amending RCW 9A.56.030, 9A.56.040, 9A.56.150, 9A.56.160, 9.94A.734, 13.40.0357, 13.40.210, 9A.56.070, and 9A.56.096; reenacting and amending RCW 9.94A.525, 9.94A.515, 13.40.160, and 46.63.110; adding new sections to chapter 9A.56 RCW; adding new sections to chapter 13.40 RCW; adding a new section to chapter 36.28A RCW; adding a new chapter to Title 46 RCW; creating new sections; and prescribing penalties."

MOTION

On motion of Senator Kline, the rules were suspended, Engrossed Third Substitute House Bill No. 1001 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline, Carrell, Hargrove, Brandland, Eide, Roach and Kohl-Welles spoke in favor of passage of the bill. Senator Delvin spoke on final passage of the bill.

MOTION

On motion of Senator Regala, Senator Poulsen was excused.

The President declared the question before the Senate to be the final passage of Engrossed Third Substitute House Bill No. 1001 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Third Substitute House Bill No. 1001 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Brown and Poulsen - 2

ENGROSSED THIRD SUBSTITUTE HOUSE BILL NO. 1001 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Franklin: "Since it is the birthday, there are no birthdays that you can celebrate without cupcakes. One of the staff, Jeannine Dellwo, was very kind and made cupcakes, so with chocolate frosting. It's in the Majority Caucus Room."

SECOND READING

HOUSE BILL NO. 1042, by Representatives Rodne, Pedersen, Moeller and Lantz

Modifying the share acquisition time period for engaging in a significant business transaction.

The measure was read the second time.

MOTION

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

Senator Tom spoke in favor of passage of the bill.

MOTION

On motion of Senator Regala, Senator Kline was excused.

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

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1042 and the bill passed the Senate by the following

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vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Excused: Senators Brown, Kline and Poulsen - 3

HOUSE BILL NO. 1042, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1278, by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Simpson and Kenney)

Modifying industry average unemployment contribution rates.

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 1278 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1278.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1278 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 3; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Swecker, Tom, Weinstein and Zarelli - 43

Voting nay: Senators Holmquist, Honeyford and Stevens - 3

Excused: Senators Brown, Kline and Poulsen - 3

SUBSTITUTE HOUSE BILL NO. 1278, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

The President signed:

SENATE BILL NO. 5036,
SENATE BILL NO. 5079,
SENATE BILL NO. 5113,
SUBSTITUTE SENATE BILL NO. 5231,
SUBSTITUTE SENATE BILL NO. 5263,
SENATE BILL NO. 5264,
SENATE BILL NO. 5351,
SENATE BILL NO. 5382,
ENGROSSED SENATE BILL NO. 5385,
SUBSTITUTE SENATE BILL NO. 5405,
SENATE BILL NO. 5408,

SUBSTITUTE SENATE BILL NO. 5481,
SENATE BILL NO. 5490,
ENGROSSED SENATE BILL NO. 5513,
SENATE BILL NO. 5525,
SUBSTITUTE SENATE BILL NO. 5688,
SUBSTITUTE SENATE BILL NO. 5715,
SUBSTITUTE SENATE BILL NO. 5720,
SENATE BILL NO. 5775,
SENATE BILL NO. 5879,
SECOND SUBSTITUTE SENATE BILL NO. 5883,
SENATE BILL NO. 5918,
SENATE BILL NO. 5953,

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1304, by House Committee on Transportation (originally sponsored by Representatives Kagi, Clibborn, Jarrett, Flannigan, McCoy, Darneille, Lovick, Campbell, Schual-Berke, Kenney, Morrell and Roberts)

Modifying commercial motor vehicle carrier provisions.

The measure was read the second time.

MOTION

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

On page 3, after line 23, insert the following:

"(4) Beginning on June 30, 2012, the requirements of subsection (3) of this section apply to any original or renewal application that is submitted to the department for registration of a commercial motor vehicle that is owned by a motor carrier subject to RCW 46.32.080, and that has a gross vehicle weight rating of 7,258 kilograms (16,001 pounds) or more."

On page 9, after line 4, insert the following:

"(b) All motor carriers operating in this state who (i) have not applied under (a) of this subsection for a department of transportation number, as defined in section 3 of this act, and (ii) have a commercial motor vehicle that has a gross vehicle weight rating of 7,258 kilograms (16,001 pounds) or more, must apply for a department of transportation number by January 1, 2011."

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

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Transportation to Substitute House Bill No. 1304.

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

MOTION

On motion of Senator Murray, the rules were suspended, Substitute House Bill No. 1304 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1304 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1304 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 42; Nays, 4; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove,

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Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, McCaslin, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Swecker, Tom, Weinstein and Zarelli - 42

Voting nay: Senators Holmquist, Morton, Roach and Stevens - 4

Excused: Senators Brown, Kline and Poulsen - 3

SUBSTITUTE HOUSE BILL NO. 1304 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1422, by House Committee on Human Services (originally sponsored by Representatives Roberts, Dickerson, Appleton, Walsh, Haler, Darneille, Lovick, Pettigrew, Quall, Hasegawa, Sells, Goodman, Eddy, Green, O'Brien, Chase, Kagi, Ormsby and Santos)

Addressing children and families of incarcerated parents.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature recognizes the significant impact on the lives and well-being of children and families when a parent is incarcerated. It is the intent of the legislature to support children and families, and maintain familial connections when appropriate, during the period a parent is incarcerated. Further, the legislature finds that there must be a greater emphasis placed on identifying state policies and programs impacting children with incarcerated parents. Additionally, greater effort must be made to ensure that the policies and programs of the state are supportive of the children, and meet their needs during the time the parent is incarcerated.

According to the final report of the children of incarcerated parents oversight committee, helping offenders build durable family relationships may reduce the likelihood that their children will go to prison later in life. Additionally, the report indicates that offenders who reconnect with their families in sustaining ways are less likely to reoffend. In all efforts to help offenders build these relationships with their children, the safety of the children will be paramount.

NEW SECTION. Sec. 2. A new section is added to chapter 72.09 RCW to read as follows:

(1) The secretary of corrections shall review current department policies and assess the following:

(a) The impact of existing policies on the ability of offenders to maintain familial contact and engagement between inmates and children; and

(b) The adequacy and availability of programs targeted at inmates with children.

(2) The secretary shall adopt policies that encourage familial contact and engagement between inmates and their children with the goal of reducing recidivism and intergenerational incarceration. Programs and policies should take into consideration the children's need to maintain contact with his or her parent and the inmate's ability to develop plans to financially support their children, assist in reunification when appropriate, and encourage the improvement of parenting skills where needed.

(3) The department shall conduct the following activities to assist in implementing the requirements of subsection (1) of this section:

(a) Gather information and data on the families of inmates, particularly the children of incarcerated parents;

(b) Evaluate data to determine the impact on recidivism and intergenerational incarceration; and

(c) Participate in the children of incarcerated parents advisory committee and report information obtained under this section to the advisory committee.

NEW SECTION. Sec. 3. A new section is added to chapter 74.04 RCW to read as follows:

(1)(a) The secretary of social and health services shall review current department policies and assess the adequacy and availability of programs targeted at persons who receive services through the department who are the children and families of a person who is incarcerated in a department of corrections facility. Great attention shall be focused on programs and policies affecting foster youth who have a parent who is incarcerated.

(b) The secretary shall adopt policies that encourage familial contact and engagement between inmates of the department of corrections facilities and their children with the goal of facilitating normal child development, while reducing recidivism and intergenerational incarceration. Programs and policies should take into consideration the children's need to maintain contact with his or her parent, the inmate's ability to develop plans to financially support their children, assist in reunification when appropriate, and encourage the improvement of parenting skills where needed. The programs and policies should also meet the needs of the child while the parent is incarcerated.

(2) The secretary shall conduct the following activities to assist in implementing the requirements of subsection (1) of this section:

(a) Gather information and data on the recipients of public assistance, or children in the care of the state under chapter 13.34 RCW, who are the children and families of inmates incarcerated in department of corrections facilities; and

(b) Participate in the children of incarcerated parents advisory committee and report information obtained under this section to the advisory committee.

NEW SECTION. Sec. 4. A new section is added to chapter 43.215 RCW to read as follows:

(1)(a) The director of the department of early learning shall review current department policies and assess the adequacy and availability of programs targeted at persons who receive assistance who are the children and families of a person who is incarcerated in a department of corrections facility. Great attention shall be focused on programs and policies affecting foster youth who have a parent who is incarcerated.

(b) The director shall adopt policies that support the children of incarcerated parents and meet their needs with the goal of facilitating normal child development, while reducing intergenerational incarceration.

(2) The director shall conduct the following activities to assist in implementing the requirements of subsection (1) of this section:

(a) Gather information and data on the recipients of assistance who are the children and families of inmates incarcerated in department of corrections facilities; and

(b) Participate in the children of incarcerated parents advisory committee and report information obtained under this section to the advisory committee.

NEW SECTION. Sec. 5. A new section is added to chapter 28A.300 RCW to read as follows:

(1) The superintendent of public instruction shall review current policies and assess the adequacy and availability of programs targeted at children who have a parent who is incarcerated in a department of corrections facility. The superintendent of public instruction shall adopt policies that support the children of incarcerated parents and meet their needs with the goal of facilitating normal child development, including maintaining adequate academic progress, while reducing intergenerational incarceration.

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(2) The superintendent shall conduct the following activities to assist in implementing the requirements of subsection (1) of this section:

(a) Gather information and data on the students who are the children of inmates incarcerated in department of corrections facilities; and

(b) Participate in the children of incarcerated parents advisory committee and report information obtained under this section to the advisory committee.

NEW SECTION. Sec. 6. A new section is added to chapter 43.63A RCW to read as follows:

(1)(a) The department of community, trade, and economic development shall establish an advisory committee to monitor, guide, and report on recommendations relating to policies and programs for children and families with incarcerated parents.

(b) The advisory committee shall include representatives of the department of corrections, the department of social and health services, the department of early learning, the office of the superintendent of public instruction, 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.), court administrators, the administrative office of the courts, the Washington association of sheriffs and police chiefs, jail administrators, the office of the governor, and others who have an interest in these issues.

(c) The advisory committee shall:

(i) Gather the data collected by the departments as required in sections 2 through 5 of this act;

(ii) Monitor and provide consultation on the implementation of recommendations contained in the 2006 children of incarcerated parents report;

(iii) Identify areas of need and develop recommendations for the legislature, the department of social and health services, the department of corrections, the department of early learning, and the office of the superintendent of public instruction to better meet the needs of children and families of persons incarcerated in department of corrections facilities; and

(iv) Advise the department of community, trade, and economic development regarding community programs the department should fund with moneys appropriated for this purpose in the operating budget. The advisory committee shall provide recommendations to the department regarding the following:

(A) The goals for geographic distribution of programs and funding;

(B) The scope and purpose of eligible services and the priority of such services;

(C) Grant award funding limits;

(D) Entities eligible to apply for the funding;

(E) Whether the funding should be directed towards starting or supporting new programs, expanding existing programs, or whether the funding should be open to all eligible services and providers; and

(F) Other areas the advisory committee determines appropriate.

(d) The children of incarcerated parents advisory committee shall update the legislature and governor annually on committee activities, with the first update due by January 1, 2008.

(2) The department of community, trade, and economic development shall select community programs or services to receive funding that focus on children and families of inmates incarcerated in a department of corrections facility and sustaining the family during the period of the inmate's incarceration.

(a) Programs or services which meet the needs of the children of incarcerated parents should be the greatest consideration in the programs that are identified by the department.

(b) The department shall consider the recommendations of the advisory committee regarding which services or programs the department should fund.

(c) The programs selected shall collaborate with an agency, or agencies, experienced in providing services to aid families and victims of sexual assault and domestic violence to ensure

that the programs identify families who have a history of sexual assault or domestic violence and ensure the services provided are appropriate for the children and families.

NEW SECTION. Sec. 7. The children of incarcerated parents oversight committee shall expire on the effective date of this section.

NEW SECTION. Sec. 8. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2007, in the omnibus appropriations act, this act is null and void."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Engrossed Second Substitute House Bill No. 1422.

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

MOTION

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

On page 1, line 1 of the title, after "parents;" strike the remainder of the title and insert "adding a new section to chapter 72.09 RCW; adding a new section to chapter 74.04 RCW; adding a new section to chapter 43.215 RCW; adding a new section to chapter 28A.300 RCW; adding a new section to chapter 43.63A RCW; and creating new sections."

MOTION

On motion of Senator Regala, the rules were suspended, Engrossed Second Substitute House Bill No. 1422 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Regala, Delvin and Stevens spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1422 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1422 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Brown and Kline - 2

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1422 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1437, by Representatives Eddy, Williams, Lantz, Seaquist, Appleton, Darneille, Rolfes, Lovick, Moeller and Ericks

Concerning fees for petitioners of sexual assault protection orders.

The measure was read the second time.

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MOTION

On motion of Senator Tom, the rules were suspended, House Bill No. 1437 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Tom spoke in favor of passage of the bill.

MOTION

On motion of Senator Delvin, Senator Hewitt was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 1437.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1437 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Excused: Senators Brown, Hewitt and Kline - 3

HOUSE BILL NO. 1437, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1475, by Representatives Hurst, Haigh, Eickmeyer, Curtis, Alexander, Morrell, Crouse, Simpson, Roach and VanDeWege

Adding members to the state board for volunteer firefighters and reserve officers.

The measure was read the second time.

MOTION

On motion of Senator Fairley, the rules were suspended, House Bill No. 1475 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fairley spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1475.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1475 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Brown and Kline - 2

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HOUSE BILL NO. 1475, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1848, by House Committee on Health Care & Wellness (originally sponsored by Representatives Curtis, Cody, Hinkle, Condotta, Orcutt, Fromhold, Moeller and Campbell)

Requiring identification from health services applicants. Revised for 1st Substitute: Requiring the department of social and health services and the health care authority to enter into data-sharing agreements with Oregon and Idaho agencies.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 1848 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1848.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1848 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Excused: Senator Kline - 1

SUBSTITUTE HOUSE BILL NO. 1848, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Premier of British Columbia, Mr. Gordon Campbell, who was seated at the rostrum.

REMARKS BY THE PRESIDENT

President Owen: "Ladies and Gentlemen of the Senate, we have a very, very special guest with us today that I have the great honor of introducing to you. That's Premier of British Columbia, Premier Gordon Campbell. He is the leader of the British Columbia Liberal Party and holds a majority in the Legislative Assembly of British Columbia. He was elected to the Vancouver Council in 1984 and from 1986 to 1993 he served as the mayor of the great city of Canada's, Vancouver. He has served as the Chair the Greater Vancouver Regional District and President of the Union of British Columbia municipalities. He became the Leader of the British Columbia Liberal Party in 1993 and was elected to the Legislative Assembly the next year in Vancouver Quilchena by election. He represents the Vancouver-Point Gray riding. This very accomplished and

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highly respected individual is here and we have the great privilege to say a few comments.”

With permission of the Senate, business was suspended to allow Premier Gordon Campbell to address the Senate.

REMARKS BY PREMIER GORDON CAMPBELL

Premier Gordon Campbell: “Well thank you all very much. It’s a great honor to be here in Olympia with the Senate. I’d just like to take a moment to say how much I appreciate the work the Senate is doing, the state government, is doing in Washington to create real partnerships with the Province of British Columbia. We have an awful lot in common, both socially as well as economically. I want to congratulate the Governor and the Senate for the work they’ve done in the Western hemisphere travel initiative. It’s very important to our Province and to your state and I think it shows, once again, when British Columbia and Washington work together we can lead both of our countries in the direction of things that make both practical and social sense for all of us.

I also want to make sure that everyone in Washington State knows that your welcome to take full and active part in the 2010 Winter Olympic and pure Olympic Games. That represents enormous opportunities not just for the young people of our Province but for the communities of our Province as well. We’re looking forward to the Olympia and Para Olympic Games in 2010. We will be winning all of the gold medals but, we’re going to be very generous in terms of silver and bronze, so we want you to know that.

We also think it’s really, we have an awful lot of community of interests in terms of moving forward to set some standards in terms of improving our climate, dealing with issues around climate change, improving the quality of our environment and to continuing to recognize that often these challenges don’t recognize national boundaries or borders. Whether it’s our oceans or our atmosphere we all have an impact on that, I want to say how much I appreciate the work that your Governor has done with our Providence and with myself. We’ve had a number of meetings already. We’re looking to continue to build the partnerships between British Columbia and Washington. The trade that takes place, the opportunities that are here for our young people are, I think, real blessings for all the generations that will follow us if we husband our resources and work well together. So, on behalf of my colleagues and the people of British Columbia let me say thank you for the work that you do. Let me say how much we appreciate our friendships and partnerships with people in Washington state and how much we look forward to building on those in the future. We’re lucky to live in this part of the world. We’re lucky to have the opportunity to serve this part of the world and I want to say that I feel very fortunate to have so many friends in Washington that are willing to work with us to build even a better future for the people we serve. Thank you very much. I appreciate the time and the attention.”

REMARKS BY THE PRESIDENT

President Owen: “Thank you Mr. Premier Campbell, we’ve had a great relationship with Canada. We’ve been actually been taking committees to the beautiful City of Victoria. Your Minister van Dongen has become a very good friend of ours and has invited us back up there to talk about some of the cross border issues that we have with you. We look forward to try to put that together. Thank you very much for your visit and your great friendship. Come and visit us again.”

RULING BY THE PRESIDENT

President Owen: “In ruling upon the inquiry raised by Senator Fairley as to whether or not House Bill 1291 is an expansion of gambling that requires a sixty percent vote under Article II, Section 24 of the Washington Constitution, the

President finds and rules as follows:

In 2004, the Legislature enacted provisions of law relating to advance deposit wagering. Regardless of whether a point of order was requested on this bill at the time or not, such an action was clearly an expansion of gambling which would take a sixty percent vote. This law included a sunset clause, under which the act would end as of October 1, 2007.

The measure before us is very simple, as it contains only one line of substantive law, and this line deletes the sunset clause. In effect, this changes what was an authorization for advance deposit wagering for a limited time into an authorization of unlimited, or at least indeterminate, duration. Were the act to expire as present law requires, and were the body to then come back with a bill reinstating these provisions, such an act would undoubtedly take—as did the original measure passed in 2004—a sixty percent vote. It is axiomatic, then, that a measure which removes the sunset clause expands gambling from a limited period of time to an unlimited period of time likewise takes a sixty percent vote.

For these reasons, the President responds to Senator Fairley’s inquiry by ruling that a sixty percent vote of this body, 30 votes, will be needed for final passage.”

RULING BY THE PRESIDENT

President Owen: “Senator Haugen has raised the question as to whether Substitute Senate Bill 5080 takes a simple majority or a two-thirds vote on final passage, because of a prior ruling of the President on this measure. In that ruling, the President held that this measure in a previous form would take a two-thirds vote, under provisions of the law commonly referred to as Initiative 601, because it converted a specific fee into a general tax. Senator Haugen believes that adoption of the latest striking amendment to the bill changes this analysis, and has asked for a ruling based on this new language.

The President believes this is an important issue and wants to be clear in his explanation, because it involves the interplay of two earlier rulings, including one on an earlier version of this same bill. The President knows that this can be a complicated area of procedure and takes his role in this matter very seriously. In addition to answering the specific issue before us, this ruling may also provide guidance for the body in drafting for the future, and he appreciates the body’s patience as he issues this ruling.

Although the mechanics of the law may be complex, the President believes that the primary limitation in this collective law is clear: The legislature may not take action which raises state revenue unless the enacting legislation is passed with a two-thirds vote. Over the years, a body of parliamentary precedent has developed within the Legislature to differentiate between a specific fee, which takes only a simple majority vote, and a general tax increase, which would take a supermajority vote. While this is a reasonable distinction, it is not without its limits, and various rulings over the years should not be viewed by the body as an invitation to play games with revenue, names, and accounts to obfuscate the true nature of a tax increase in hopes that this will somehow circumvent the clear provisions of the law. Such machinations elevate form over substance and make a sham of the plain language of I-601.

With this in mind, the President reiterates that it is neither the name given the revenue action nor the name assigned to an account which is controlling. Calling something a fee when there is no nexus between its collection and how it is to be spent does not make it a fee for purposes of this analysis, regardless of the name of the account into which the proceeds are placed. Simply put, there must be a reasonable connection between the fee, those paying it, and the purpose on which its proceeds may be spent. Failing this, it is a tax, and a supermajority vote is required.

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Applying this to the measure before us, the previous language in the bill converted a specific fee into a general tax by impermissibly broadening the purpose for which it could be spent—indeed, over time, it would have completely done away with any reasonable limitation on the proceeds, severing the connection that previously existed between a specific fee and a specific purpose. By contrast, the language before us now essentially maintains the original purpose, but would then add another purpose—road wear related maintenance on highways.

The question then becomes whether a \$1 fee collected on the sale of tires may be used for both waste tire removal purposes and road wear maintenance on highways? The President believes that there is a logical connection between a fee collected on tires and these two purposes, and thus the fee remains a fee under the new language, it is not converted to a more general tax.

In so ruling, the President believes it would be instructive to issue a few cautionary notes. First, there is language in the bill relating to how and when proceeds would be transferred between accounts. It is important to understand that the mechanism for transfer between accounts has no bearing on the initial determination as to whether a revenue action is a fee or tax in the first place. The President will always begin by looking for a connection between the fee, those paying it, and the limited purpose for which it can be spent; accounts and transfers between them are not necessarily controlling for such an analysis. Likewise, while an intent section may be helpful, it simply provides guidance in looking at the measure as a whole, and it will not otherwise change the plain language of the substantive provisions of the bill.

Second, while the President cannot give a specific number of purposes which would be too many, thereby breaking the nexus between a fee and the limited use of its proceeds, it does seem that an excessive number of purposes tied to one limited fee would indicate that it is no longer a fee, but is instead a general tax increase. At some point, there might be so many purposes stated that the distinction between a fee and a tax increase is lost. The President issues these cautions not as a comment upon any policy choice made by this body, but simply as guidance for the future in meeting the parliamentary constraints of I-601.

For these reasons, the President responds to Senator Haugen's inquiry by ruling that only a simple majority of this body, 25 votes, is needed for final passage of this measure as recently amended by striking amendment 302.

The Senate resumed consideration of Substitute Senate Bill No. 5080 which had been deferred on a previous day.

MOTION

On motion of Senator Marr, the rules were suspended, Engrossed Substitute Senate Bill No. 5080 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Marr spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5080.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5080 and the bill passed the Senate by the following vote: Yeas, 38; Nays, 10; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, Murray, Oemig,

Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Sheldon, Shin, Spanel, Swecker, Tom and Weinstein - 38

Voting nay: Senators Carrell, Delvin, Holmquist, Honeyford, McCaslin, Morton, Roach, Schoesler, Stevens and Zarelli - 10

Excused: Senator Kline - 1

ENGROSSED SUBSTITUTE SENATE BILL NO. 5080, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED HOUSE BILL NO. 2113, by Representatives Williams, Goodman, Green, Hunt and Simpson

Regarding objections by cities, towns, and counties to the issuance of liquor licenses.

The measure was read the second time.

MOTION

Senator Kohl-Welles moved that the following committee amendment by the Committee on Labor, Commerce, Research & Development be adopted.

On page 5, starting on line 10, after "request" strike all material through "hold" on line 11

On page 8, starting on line 1, after "statements" strike all material through "patrol" on line 2 and insert "given to law enforcement upon arrest"

Senator Kohl-Welles spoke in favor of adoption of the committee amendment.

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Labor, Commerce, Research & Development to Engrossed House Bill No. 2113.

The motion by Senator Kohl-Welles carried and the committee amendment was adopted by voice vote.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed House Bill No. 2113 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator Regala, Senator Brown was excused.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 2113 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2113 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette,

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Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Brown and Kline - 2

ENGROSSED HOUSE BILL NO. 2113 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 4:32 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 5:29 p.m. by President Pro Tempore.

MOTION

At 5:30 p.m., on motion of Senator Eide, the Senate adjourned until 9:00 a.m. Thursday, April 5, 2007.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

1001-S3	
Other Action	32
Second Reading	16
Third Reading Final Passage	32
1002-S	
President Signed	2
Speaker Signed	1
1042	
Second Reading	32
Third Reading Final Passage	32
1097-S	
President Signed	2
Speaker Signed	1
1144-S	
Second Reading	8
Third Reading Final Passage	8
1244-S	
Other Action	8
Second Reading	8
Third Reading Final Passage	8
1266-S	
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Second Reading	9
Third Reading Final Passage	9
1278-S	
Second Reading	33
Third Reading Final Passage	33
1304-S	
Other Action	33
Second Reading	33
Third Reading Final Passage	33
1331	
Other Action	7
Second Reading	6
Third Reading Final Passage	7
1337-S	
President Signed	2
Speaker Signed	1
1398-S	
President Signed	2
Speaker Signed	1

1422-S2	Messages	1
Other Action	President Signed	33
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Third Reading Final Passage	Messages	1
1437	President Signed	33
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Third Reading Final Passage	Messages	1
1475	President Signed	33
Second Reading	5385	
Third Reading Final Passage	Messages	1
1507-S	President Signed	33
President Signed	5405	
Speaker Signed	President Signed	33
1694-S	5405-S	
Other Action	Messages	1
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Third Reading Final Passage	Messages	1
1848-S	President Signed	33
Second Reading	5481-S	
Third Reading Final Passage	Messages	1
2008-S	President Signed	33
Second Reading	5490	
Third Reading Final Passage	Messages	1
2103-S	President Signed	33
President Signed	5513	
Speaker Signed	Messages	1
2113	President Signed	33
Other Action	5525	
Second Reading	Messages	1
Third Reading Final Passage	President Signed	33
2147-S	5620	
Second Reading	Speaker Signed	1
Third Reading Final Passage	5625-S	
2171-S	Speaker Signed	1
President Signed	5635	
Speaker Signed	Speaker Signed	1
2335-S	5688-S	
President Signed	Messages	1
Speaker Signed	President Signed	33
2358-S	5715-S	
Other Action	Messages	1
Second Reading	President Signed	33
Third Reading Final Passage	5720-S	
5011	Messages	1
Speaker Signed	President Signed	33
5036	5759	
Messages	Speaker Signed	1
President Signed	5775	
5079	Messages	1
Messages	President Signed	33
President Signed	5879	
5080-S	Messages	1
Third Reading Final Passage	President Signed	33
5113	5883-S2	
Messages	Messages	1
President Signed	President Signed	33
5166	5898-S	
Speaker Signed	Speaker Signed	1
5191-S	5918	
Speaker Signed	Messages	1
5231-S	President Signed	33
Messages	5952-S	
President Signed	Speaker Signed	1
5253	5953	
Speaker Signed	Messages	1
5263-S	President Signed	33
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President Signed	Speaker Signed	1
5264	8008	

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8655	
Adopted	2
Introduced	2
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Confirmed	3
9039 Karen Miller	
Confirmed	3
9051 Tim Otani	
Confirmed	3
9066 Faouzi Sefrioui	
Confirmed	3
9085 Anthony Aronica	
Confirmed	4
9095 Jay Carmony	
Confirmed	5
9115 Francois Forgette	
Confirmed	4
9135 Tom Karier	
Confirmed	5
9150 Patricia Mattsen Notter	
Confirmed	4
9168 Anne Proffitt	
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9179 Kyle Smith	
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