

NINETY-SECOND DAY

MORNING SESSION

Senate Chamber, Olympia, Monday, April 9, 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 of Senators Benton, Brown, Delvin, Haugen, Holmquist, Kauffman, Keiser, Pflug, Rasmussen and Tom.

The Sergeant at Arms Color Guard consisting of Pages Tyler Japhet and Aly Swanson, presented the Colors. Reverend John Maxwell of the First United Methodist and Congregational 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 fourth order of business.

MESSAGE FROM THE HOUSE

April 6, 2007

MR. PRESIDENT:

The Speaker has signed:  
 HOUSE BILL NO. 1000,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1024,  
 HOUSE BILL NO. 1042,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1114,  
 SUBSTITUTE HOUSE BILL NO. 1144,  
 HOUSE BILL NO. 1185,  
 SUBSTITUTE HOUSE BILL NO. 1261,  
 SUBSTITUTE HOUSE BILL NO. 1262,  
 SUBSTITUTE HOUSE BILL NO. 1278  
 HOUSE BILL NO. 1292,  
 HOUSE BILL NO. 1305,  
 HOUSE BILL NO. 1349,  
 SUBSTITUTE HOUSE BILL NO. 1381,  
 HOUSE BILL NO. 1437,  
 SUBSTITUTE HOUSE BILL NO. 1458,  
 HOUSE BILL NO. 1475,  
 SUBSTITUTE HOUSE BILL NO. 1508,  
 SUBSTITUTE HOUSE BILL NO. 1513,  
 HOUSE BILL NO. 1793,  
 SUBSTITUTE HOUSE BILL NO. 1848,  
 HOUSE BILL NO. 1870,  
 HOUSE BILL NO. 1940,  
 HOUSE BILL NO. 1972,  
 SUBSTITUTE HOUSE BILL NO. 2008,  
 SUBSTITUTE HOUSE BILL NO. 2147,  
 HOUSE BILL NO. 2161,  
 and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

April 6, 2007

MR. PRESIDENT:

The Speaker has 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,  
 and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:  
 HOUSE BILL NO. 1000  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1024,  
 HOUSE BILL NO. 1042,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1114,  
 SUBSTITUTE HOUSE BILL NO. 1144,  
 HOUSE BILL NO. 1185,  
 SUBSTITUTE HOUSE BILL NO. 1261,  
 SUBSTITUTE HOUSE BILL NO. 1262  
 SUBSTITUTE HOUSE BILL NO. 1278,  
 HOUSE BILL NO. 1292,  
 HOUSE BILL NO. 1305,  
 HOUSE BILL NO. 1349,  
 SUBSTITUTE HOUSE BILL NO. 1381,  
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 HOUSE BILL NO. 1475,  
 SUBSTITUTE HOUSE BILL NO. 1508,  
 SUBSTITUTE HOUSE BILL NO. 1513,  
 HOUSE BILL NO. 1793,  
 SUBSTITUTE HOUSE BILL NO. 1848,  
 HOUSE BILL NO. 1870,  
 HOUSE BILL NO. 1940,  
 HOUSE BILL NO. 1972,  
 SUBSTITUTE HOUSE BILL NO. 2008,  
 SUBSTITUTE HOUSE BILL NO. 2147,  
 HOUSE BILL NO. 2161,

MOTION TO LIMIT DEBATE

Senator Eide: "Mr. President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through April 22, 2007."

The President declared the question before the Senate to be the motion by Senator Eide to limit debate.

The motion by Senator Eide carried and debate was limited through April 22, 2007.

MOTION

On motion of Senator Eide, Senate Rule 20 was suspended for the remainder of the day to allow consideration of additional floor resolutions.

EDITOR'S NOTE: Senate Rule 20 prohibits limits consideration of floor resolutions not essential to the operation of the Senate to one per day during regular daily sessions.

MOTION

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

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Rockefeller moved that Gubernatorial Appointment No. 9000, Laura Anderson, as a member of the Personnel Resources Board, be confirmed.

Senator Rockefeller spoke in favor of the motion.

MOTION

On motion of Senator Regala, Senators Haugen, Kauffman, Rasmussen and Tom were excused.

MOTION

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

APPOINTMENT OF LAURA ANDERSON

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9000, Laura Anderson as a member of the Personnel Resources Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9000, Laura Anderson as a member of the Personnel Resources Board and the appointment was confirmed by the following vote: Yeas, 39; Nays, 0; Absent, 3; Excused, 7.

Voting yea: Senators Berkey, Brandland, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Poulsen, Prentice, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 39

Absent: Senators Brown, Keiser and Pflug - 3

Excused: Senators Benton, Delvin, Haugen, Holmquist, Kauffman, Rasmussen and Tom - 7

Gubernatorial Appointment No. 9000, Laura Anderson, having received the constitutional majority was declared confirmed as a member of the Personnel Resources Board.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Rockefeller moved that Gubernatorial Appointment No. 9097, Pat E. Clothier, as a member of the Board of Trustees, State School for the Deaf, be confirmed.

Senators Rockefeller and Spanel spoke in favor of the motion.

MOTION

On motion of Senator Regala, Senators Brown and Keiser were excused.

MOTION

On motion of Senator Brandland, Senator Pflug was excused.

APPOINTMENT OF PAT E. CLOTHIER

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9097, Pat E. Clothier as a member of the Board of Trustees, State School for the Deaf.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9097, Pat E. Clothier as a member of the Board of Trustees, State School for the Deaf and the appointment was confirmed by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

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

Excused: Senators Brown, Delvin, Haugen, Keiser, Rasmussen and Tom - 6

Gubernatorial Appointment No. 9097, Pat E. Clothier, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, State School for the Deaf.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Hatfield moved that Gubernatorial Appointment No. 9099, Dennis R. Colwell, as a member of the Board of Trustees, Grays Harbor Community College District No. 2, be confirmed.

Senator Hatfield spoke in favor of the motion.

APPOINTMENT OF DENNIS R. COLWELL

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9099, Dennis R. Colwell as a member of the Board of Trustees, Grays Harbor Community College District No. 2.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9099, Dennis R. Colwell as a member of the Board of Trustees, Grays Harbor Community College District No. 2 and the appointment was confirmed by the following vote: Yeas, 42; Nays, 0; Absent, 2; Excused, 5.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Swecker, Weinstein and Zarelli - 42

Absent: Senators Prentice and Stevens - 2

Excused: Senators Brown, Delvin, Haugen, Keiser and Tom - 5

Gubernatorial Appointment No. 9099, Dennis R. Colwell, having received the constitutional majority was declared

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confirmed as a member of the Board of Trustees, Grays Harbor Community College District No. 2.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Fairley moved that Gubernatorial Appointment No. 9161, Roger Olstad, as a member of the Board of Trustees, Shoreline Community College District No. 7, be confirmed.

Senator Fairley spoke in favor of the motion.

APPOINTMENT OF ROGER OLSTAD

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9161, Roger Olstad as a member of the Board of Trustees, Shoreline Community College District No. 7.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9161, Roger Olstad as a member of the Board of Trustees, Shoreline Community College District No. 7 and the appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, 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, Weinstein and Zarelli - 44

Excused: Senators Brown, Delvin, Haugen, Keiser and Tom - 5

Gubernatorial Appointment No. 9161, Roger Olstad, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Shoreline Community College District No. 7.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Rockefeller moved that Gubernatorial Appointment No. 9162, Lisa Parker, as a member of the Board of Trustees, Yakima Valley Community College District No. 16, be confirmed.

Senators Rockefeller and Clements spoke in favor of the motion.

MOTION

On motion of Senator Brandland, Senator Carrell was excused.

APPOINTMENT OF LISA PARKER

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9162, Lisa Parker as a member of the Board of Trustees, Yakima Valley Community College District No. 16.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9162, Lisa Parker as a member of the Board of Trustees, Yakima Valley Community College District No. 16 and the appointment was confirmed by the following vote: Yeas, 43; Nays, 0; Absent, 1; Excused, 5.

Voting yea: Senators Berkey, Brandland, Clements, Eide,

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Fairley, Franklin, Fraser, Hargrove, Hatfield, 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, Weinstein and Zarelli - 43

Absent: Senator Benton - 1

Excused: Senators Brown, Carrell, Delvin, Haugen and Tom - 5

Gubernatorial Appointment No. 9162, Lisa Parker, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Yakima Valley Community College District No. 16.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Rockefeller moved that Gubernatorial Appointment No. 9164, Darlene Peters, as a member of the Board of Trustees, Olympic Community College District No. 3, be confirmed.

Senator Rockefeller spoke in favor of the motion.

APPOINTMENT OF DARLENE PETERS

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9164, Darlene Peters as a member of the Board of Trustees, Olympic Community College District No. 3.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9164, Darlene Peters as a member of the Board of Trustees, Olympic Community College District No. 3 and the appointment was confirmed by the following vote: Yeas, 43; Nays, 0; Absent, 1; Excused, 5.

Voting yea: Senators Benton, Berkey, Brandland, Clements, Eide, Fairley, Fraser, Hargrove, Hatfield, 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, Weinstein and Zarelli - 43

Absent: Senator Franklin - 1

Excused: Senators Brown, Carrell, Delvin, Haugen and Tom - 5

Gubernatorial Appointment No. 9164, Darlene Peters, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Olympic Community College District No. 3.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Keiser moved that Gubernatorial Appointment No. 9170, Michael V. Regimabal, as a member of the Board of Trustees, Highline Community College District No. 9, be confirmed.

Senator Keiser spoke in favor of the motion.

MOTION

On motion of Senator Regala, Senator Franklin was excused.

APPOINTMENT OF MICHAEL V. REGIMBAL

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9170, Michael V. Regimabal as a member of the Board of Trustees, Highline Community College District No. 9.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9170, Michael V. Regimabal as a member of the Board of Trustees, Highline Community College District No. 9 and the appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Benton, Berkey, Brandland, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, 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, Weinstein and Zarelli - 44

Excused: Senators Brown, Carrell, Delvin, Haugen and Tom - 5

Gubernatorial Appointment No. 9170, Michael V. Regimabal, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Highline Community College District No. 9.

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

##### MOTION

Senator Rockefeller moved that Gubernatorial Appointment No. 9206, Patrick J. Oshie, as a member of the Utilities and Transportation Commission, be confirmed.

Senators Rockefeller and Clements spoke in favor of the motion.

##### APPOINTMENT OF PATRICK J. OSHIE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9206, Patrick J. Oshie as a member of the Utilities and Transportation Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9206, Patrick J. Oshie as a member of the Utilities and Transportation Commission and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Clements, 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, Weinstein and Zarelli - 45

Excused: Senators Brown, Carrell, Delvin and Tom - 4

Gubernatorial Appointment No. 9206, Patrick J. Oshie, having received the constitutional majority was declared confirmed as a member of the Utilities and Transportation Commission.

##### MOTION

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

##### MOTION

Senator Hargrove moved adoption of the following resolution:

#### SENATE RESOLUTION 8684

By Senator Hargrove

WHEREAS, Girls high school wrestling is a physically challenging, character-building, and team-oriented sport; and

WHEREAS, The Hoquiam High School girls wrestling team is composed of 25 girls who worked with coaches and members of the boys wrestling team all season to hone their skills; and

WHEREAS, The Hoquiam High School girls wrestling team made its way through one of eight subregional championships to proceed to the inaugural Washington state girls wrestling championship in Tacoma; and

WHEREAS, The Hoquiam High School girls wrestling team won the inaugural Washington state girls wrestling championship with 62 points;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate congratulate the Hoquiam High School championship girls wrestling team for becoming the first ever girls wrestling state champions; and

BE IT FURTHER RESOLVED, That the coaches, assistant coaches, and members of the boys wrestling team be commended for their dedication and expertise in preparing these athletes for their outstanding season; and

BE IT FURTHER RESOLVED, That the families of these athletes also be commended for supporting their daughters as they pursued their dream of a championship season; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Washington State Senate, Hoquiam High School, and the Aberdeen *Daily World* newspaper.

Senators Hargrove and Kohl-Welles spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8684.

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

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed members of the Hoquiam High School champions girls wrestling team who were seated in the gallery.

##### MOTION

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

##### MOTION

On motion of Senator Brandland, Senator Zarelli was excused.

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

##### MOTION

Senator Holmquist moved that Gubernatorial Appointment No. 9234, Cecilia Deluna-Gaeta, as a member of the Board of Trustees, Big Bend Community College District No. 18, be confirmed.

Senator Holmquist spoke in favor of the motion.

#### APPOINTMENT OF CECILIA DELUNA-GAETA

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The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9234, Cecilia Deluna-Gaeta as a member of the Board of Trustees, Big Bend Community College District No. 18.

confirmed as a member of the Board of Trustees, Skagit Valley Community College District No. 4.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9234, Cecilia Deluna-Gaeta as a member of the Board of Trustees, Big Bend Community College District No. 18 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Regala moved that Gubernatorial Appointment No. 9258, Don Dennis, as a member of the Board of Trustees, Tacoma Community College District No. 22, be confirmed.

Senator Regala spoke in favor of the motion.

Voting yea: Senators Benton, Berkey, Brandland, Clements, 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, Weinstein and Zarelli - 45

APPOINTMENT OF DON DENNIS

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9258, Don Dennis as a member of the Board of Trustees, Tacoma Community College District No. 22.

Excused: Senators Brown, Carrell, Delvin and Tom - 4

Gubernatorial Appointment No. 9234, Cecilia Deluna-Gaeta, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Big Bend Community College District No. 18.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9258, Don Dennis as a member of the Board of Trustees, Tacoma Community College District No. 22 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Haugen moved that Gubernatorial Appointment No. 9245, Gordon (Don) Piercy, as a member of the Board of Trustees, Skagit Valley Community College District No. 4, be confirmed.

Senator Haugen spoke in favor of the motion.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, 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, Weinstein and Zarelli - 45

Excused: Senators Brown, Delvin, Poulsen and Tom - 4

Gubernatorial Appointment No. 9258, Don Dennis, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Tacoma Community College District No. 22.

MOTION

On motion of Senator Regala, Senator Poulsen was excused.

APPOINTMENT OF GORDON (DON) PIERCY

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9245, Gordon (Don) Piercy as a member of the Board of Trustees, Skagit Valley Community College District No. 4.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Prentice moved that Gubernatorial Appointment No. 9087, Ronnie Behnke, as a member of the Board of Trustees, Renton Technical College District No. 27, be confirmed.

Senator Prentice spoke in favor of the motion.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9245, Gordon (Don) Piercy as a member of the Board of Trustees, Skagit Valley Community College District No. 4 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

MOTION

On motion of Senator Regala, Senator Hargrove was excused.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, 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, Weinstein and Zarelli - 45

APPOINTMENT OF RONNIE BEHNKE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9087, Ronnie Behnke as a member of the Board of Trustees, Renton Technical College District No. 27.

Excused: Senators Brown, Delvin, Poulsen and Tom - 4

Gubernatorial Appointment No. 9245, Gordon (Don) Piercy, having received the constitutional majority was declared

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9087, Ronnie Behnke as a member of the Board of Trustees, Renton Technical College District No. 27 and the appointment was confirmed by the

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following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Eide, Fairley, Franklin, Fraser, 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, Weinstein and Zarelli - 44

Excused: Senators Brown, Delvin, Hargrove, Poulsen and Tom - 5

Gubernatorial Appointment No. 9087, Ronnie Behnke, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Renton Technical College District No. 27.

#### MOTION

On motion of Senator Brandland, Senator Benton was excused.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1091, by House Committee on Community & Economic Development & Trade (originally sponsored by Representatives VanDeWege, Chase, Upthegrove, Miloscia, B. Sullivan, O'Brien, P. Sullivan, Morrell, Sells, Kenney, Rolfes, Kelley, Moeller, Wallace and Eddy)

Promoting innovation partnership zones.

The measure was read the second time.

#### MOTION

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

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that Washington is home to some of the world's most innovative companies, researchers, entrepreneurs, and workers. Talent and creativity exist in all areas of Washington. The legislature further finds that economic potential can be enhanced when the state facilitates partnerships between talented leaders from research institutions, industry, and local economic development and workforce development organizations to attract additional talent and build on the strengths found in existing industry clusters. Washington is a national leader in economic strategy based on clusters of industries, promoting the connections among firms, suppliers, customers, and public resources. It is the intent of the legislature that Washington support innovation partnerships and partnership zones around the state that will become globally recognized as hubs of expertise, innovation, and commercialization and advance Washington's position in the world economy.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The department of community, trade, and economic development shall administer, with the advice of the Washington economic development commission, an innovation partnership zone program consisting of the designation of innovation partnership zones, the awarding of innovation partnership grants, and the provision of technical and planning assistance.

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(2) On October 1st of each year, the director shall designate innovation partnership zones. Applications for state designation of an area as an innovation partnership zone may be submitted by associate development organizations, port districts, workforce development councils, cities, or counties. Applicants must demonstrate:

(a) The support of a local jurisdiction, a research institution, an educational institution, an industry or cluster association, a workforce development council, and an associate development organization, port, or chamber of commerce;

(b) Evidence of planning for the innovation partnership zone;

(c) Identifiable boundaries for the zone within which the applicant will concentrate efforts to connect innovative researchers, entrepreneurs, investors, industry associations or clusters, and training providers. The geographic area defined should lend itself to a distinct identity and have the capacity to accommodate firm growth;

(d) The presence within the proposed innovation partnership zone of research capacity, including research teams focused on emerging technologies and their commercialization or faculty and researchers that could increase their focus on commercialization of technology if provided the appropriate technical assistance;

(e) Using labor market information from the employment security department and local labor markets as well as data on revenue growth rates, wage levels, and other factors, a concentration of firms within the proposed innovation partnership zone that are important to the economic prosperity of the state and have comparative competitive advantage or the potential for comparative competitive advantage;

(f) Training capacity either within the zone or readily accessible to the zone.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The director shall disburse innovation partnership zone grants. Innovation partnership zone grants must be used to improve the commercialization facilities within an area designated as an innovation partnership zone and be used to facilitate the collaboration between research teams, industry, and workforce training providers that will lead to the formation and financing of new innovative firms, the commercialization of research results, and the movement of firms and industry clusters into globally competitive niches. The grants will be awarded only to applicants operating within a designated innovation partnership zone consistent with the following criteria and such other criteria as the director develops in consultation with the Washington state economic development commission:

(a) Each grant must be matched by a commitment of financial support from the private sector equal to or greater than fifty percent of the requested grant amount;

(b) Eligible grant applicants may include associate development organizations, port districts, workforce development councils, educational or research institutions, and local jurisdictions;

(c) During the biennium ending June 30, 2009, no more than two partnership zone grants shall be awarded to recipients in the central Puget Sound region, a minimum of two such grants shall be awarded in eastern Washington and a minimum of one such grant shall be awarded in western Washington outside the central Puget Sound region;

(d) Applicants for innovation partnership zone grants must:

(i) Disclose the service delivery mechanisms to be used to allow industry associations, cluster associations, and businesses to access the technical assistance, advisory, research, and commercialization capabilities of research teams within the zone;

(ii) Detail how training services will be coordinated and delivered to industry associations, cluster associations, and businesses within the zone; and

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(iii) Describe the methods by which the applicant will facilitate the competitiveness of firms, the commercialization of research, and the upgrading of worker skills within the zone.

(2) The department may provide technical and planning assistance, either directly or through grants, to prospective applicants for innovation partnership zone grants who may need additional analyses or assistance to meet the requirements of the designation process or the criteria for selection as an innovation partnership zone grant recipient. The department may reserve up to twenty-five percent of innovation partnership zone grant funds available for the purposes of this subsection.

(3) The department shall assist successful innovation partnership zone grant applicants in identifying and accessing any appropriate private, federal, or state program that provides funding for planning, infrastructure, technical assistance, or training.

**NEW SECTION. Sec. 4.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The Washington state economic development commission shall, with the advice of an innovation partnership advisory group selected by the commission, have oversight responsibility for the implementation of the state's efforts to further innovation partnerships throughout the state. The commission shall:

(a) Provide information and advice to the department of community, trade, and economic development to assist in the implementation of the innovation partnership zone program, including criteria to be used in the selection of grant applicants for funding;

(b) Document clusters of companies throughout the state that have comparative competitive advantage or the potential for comparative competitive advantage, using the process and criteria for identifying strategic clusters developed by the working group specified in subsection (2) of this section;

(c) Conduct an innovation opportunity analysis to identify (i) the strongest current intellectual assets and research teams in the state focused on emerging technologies and their commercialization, and (ii) faculty and researchers that could increase their focus on commercialization of technology if provided the appropriate technical assistance and resources;

(d) Based on its findings and analysis, and in conjunction with the higher education coordinating board and research institutions:

(i) Develop a plan to build on existing, and develop new, intellectual assets and innovation research teams in the state in research areas where there is a high potential to commercialize technologies. The commission shall present the plan to the governor and legislature by December 31, 2007. The higher education coordinating board shall be responsible for implementing the plan in conjunction with the publicly funded research institutions in the state. The plan shall address the following elements and such other elements as the commission deems important:

(A) Specific mechanisms to support, enhance, or develop innovation research teams and strengthen their research and commercialization capacity in areas identified as useful to strategic clusters and innovative firms in the state;

(B) Identification of the funding necessary for laboratory infrastructure needed to house innovation research teams;

(C) Specification of the most promising research areas meriting enhanced resources and recruitment of significant entrepreneurial researchers to join or lead innovation research teams;

(D) The most productive approaches to take in the recruitment, in the identified promising research areas, of a minimum of ten significant entrepreneurial researchers over the next ten years to join or lead innovation research teams;

(E) Steps to take in solicitation of private sector support for the recruitment of entrepreneurial researchers and the commercialization activity of innovation research teams; and

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(F) Mechanisms for ensuring the location of innovation research teams in innovation partnership zones;

(ii) Provide direction for the development of comprehensive entrepreneurial assistance programs at research institutions. The programs may involve multidisciplinary students, faculty, entrepreneurial researchers, entrepreneurs, and investors in building business models and evolving business plans around innovative ideas. The programs may provide technical assistance and the support of an entrepreneur-in-residence to innovation research teams and offer entrepreneurial training to faculty, researchers, undergraduates, and graduate students. Curriculum leading to a certificate in entrepreneurship may also be offered;

(e) Develop performance measures to be used in evaluating the performance of innovation research teams, the implementation of the plan and programs under (d)(i) and (ii) of this subsection, and the performance of innovation partnership zone grant recipients, including but not limited to private investment measures, business initiation measures, job creation measures, and measures of innovation such as licensing of ideas in research institutions, patents, or other recognized measures of innovation. The performance measures developed shall be consistent with the economic development commission's comprehensive plan for economic development and its standards and metrics for program evaluation. The commission shall report to the legislature and the governor by December 31, 2008, on the measures developed; and

(f) Using the performance measures developed, perform a biennial assessment and report, the first of which shall be due December 31, 2012, on:

(i) Commercialization of technologies developed at state universities, found at other research institutions in the state, and facilitated with public assistance at existing companies;

(ii) Outcomes of the funding of innovation research teams and recruitment of significant entrepreneurial researchers;

(iii) Comparison with other states of Washington's outcomes from the innovation research teams and efforts to recruit significant entrepreneurial researchers; and

(iv) Outcomes of the grants for innovation partnership zones.

The report shall include recommendations for modifications of this act and of state commercialization efforts that would enhance the state's economic competitiveness.

(2) The economic development commission and the workforce training and education coordinating board shall jointly convene a working group to:

(a) Specify the process and criteria for identification of substate geographic concentrations of firms or employment in an industry and the industry's customers, suppliers, supporting businesses, and institutions, which process will include the use of labor market information from the employment security department and local labor markets; and

(b) Establish criteria for identifying strategic clusters which are important to economic prosperity in the state, considering cluster size, growth rate, and wage levels among other factors.

**NEW SECTION. Sec. 5.** A new section is added to chapter 43.330 RCW to read as follows:

The innovation partnership fund is created in the custody of the state treasurer. Only the state economic development commission, with the concurrence of the higher education coordinating board, may authorize expenditures from the fund. Expenditures from the fund may be made only for the purposes of section 4 of this act. Revenues to the fund consist of transfers or appropriations made by the legislature, transfers made by state research institutions, and private donations.

**NEW SECTION. Sec. 6.** A new section is added to chapter 43.330 RCW to read as follows:

For the purposes of this act, "commercialization" means a sequence of steps, including technology transfer, technical assistance in product development, production process design, and technical skills development, necessary to achieve market

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entry and general market competitiveness of innovative technologies, processes, and products.

**NEW SECTION. Sec. 7.** 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."

On page 1, line 1 of the title, after "zones;" strike the remainder of the title and insert "adding new sections to chapter 43.330 RCW; and creating new sections."

The President declared the question before the Senate to be the motion by Senator Kastama that the committee striking amendment by the Committee on Economic Development, Trade & Management to Substitute House Bill No. 1091 be not adopted

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

#### MOTION

Senator Kastama moved that the following striking amendment by Senators Kastama and Zarelli be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that Washington is home to some of the world's most innovative companies, researchers, entrepreneurs, and workers. Talent and creativity exist in all areas of Washington. The legislature further finds that economic potential can be enhanced when the state facilitates partnerships between talented leaders from research institutions, industry, and local economic development and workforce development organizations to attract additional talent and build on the strengths found in existing industry clusters. Washington is a national leader in economic strategy based on clusters of industries, promoting the connections among firms, suppliers, customers, and public resources. It is the intent of the legislature that Washington support innovation partnerships and partnership zones around the state that will become globally recognized as hubs of expertise, innovation, and commercialization and advance Washington's position in the world economy.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The department of community, trade, and economic development shall administer, with the advice of the Washington economic development commission, an innovation partnership zone program.

(2) On October 1st of each year, the director shall designate innovation partnership zones. Applications for state designation of an area as an innovation partnership zone may be submitted by associate development organizations, port districts, workforce development councils, cities, or counties. Applicants must demonstrate:

(a) The support of a local jurisdiction, a research institution, an educational institution, an industry or cluster association, a workforce development council, and an associate development organization, port, or chamber of commerce;

(b) Evidence of planning for the innovation partnership zone;

(c) Identifiable boundaries for the zone within which the applicant will concentrate efforts to connect innovative researchers, entrepreneurs, investors, industry associations or clusters, and training providers. The geographic area defined should lend itself to a distinct identity and have the capacity to accommodate firm growth;

(d) The presence within the proposed innovation partnership zone of research capacity, including research teams focused on emerging technologies and their commercialization or faculty and researchers that could increase their focus on commercialization of technology if provided the appropriate technical assistance;

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(e) Using labor market information from the employment security department and local labor markets as well as data on revenue growth rates, wage levels, and other factors, a concentration of firms within the proposed innovation partnership zone that are important to the economic prosperity of the state and have comparative competitive advantage or the potential for comparative competitive advantage;

(f) Training capacity either within the zone or readily accessible to the zone.

(3) An innovation partnership zone shall be designated as a zone for a four-year period. At the end of the four-year period, the zone must reapply for the designation through the department.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.330 RCW to read as follows:

The director shall disburse innovation partnership zone grants. Innovation partnership zone grants must be used to improve the commercialization facilities within an area designated as an innovation partnership zone and be used to facilitate the collaboration between research teams, industry, and workforce training providers that will lead to the formation and financing of new innovative firms, the commercialization of research results, and the movement of firms and industry clusters into globally competitive niches. The grants will be awarded only to applicants operating within a designated innovation partnership zone consistent with the following criteria and such other criteria as the director develops in consultation with the Washington state economic development commission:

(1) Each grant must be matched by a commitment of financial support from the private sector equal to or greater than fifty percent of the requested grant amount;

(2) Eligible grant applicants may include associate development organizations, port districts, workforce development councils, educational or research institutions, and local jurisdictions;

(3) During the biennium ending June 30, 2009, no more than two partnership zone grants shall be awarded to recipients in the central Puget Sound region, a minimum of two such grants shall be awarded in eastern Washington and a minimum of one such grant shall be awarded in western Washington outside the central Puget Sound region;

(4) Applicants for innovation partnership zone grants must:

(a) Disclose the service delivery mechanisms to be used to allow industry associations, cluster associations, and businesses to access the technical assistance, advisory, research, and commercialization capabilities of research teams within the zone;

(b) Detail how training services will be coordinated and delivered to industry associations, cluster associations, and businesses within the zone; and

(c) Describe the methods by which the applicant will facilitate the competitiveness of firms, the commercialization of research, and the upgrading of worker skills within the zone.

**NEW SECTION. Sec. 4.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The Washington state economic development commission shall, with the advice of an innovation partnership advisory group selected by the commission, have oversight responsibility for the implementation of the state's efforts to further innovation partnerships throughout the state. The commission shall:

(a) Provide information and advice to the department of community, trade, and economic development to assist in the implementation of the innovation partnership zone program, including criteria to be used in the selection of grant applicants for funding;

(b) Document clusters of companies throughout the state that have comparative competitive advantage or the potential for comparative competitive advantage, using the process and



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criteria for identifying strategic clusters developed by the working group specified in subsection (2) of this section;

(c) Conduct an innovation opportunity analysis to identify (i) the strongest current intellectual assets and research teams in the state focused on emerging technologies and their commercialization, and (ii) faculty and researchers that could increase their focus on commercialization of technology if provided the appropriate technical assistance and resources;

(d) Based on its findings and analysis, and in conjunction with the higher education coordinating board and research institutions:

(i) Develop a plan to build on existing, and develop new, intellectual assets and innovation research teams in the state in research areas where there is a high potential to commercialize technologies. The commission shall present the plan to the governor and legislature by December 31, 2007. The higher education coordinating board shall be responsible for implementing the plan in conjunction with the publicly funded research institutions in the state. The plan shall address the following elements and such other elements as the commission deems important:

(A) Specific mechanisms to support, enhance, or develop innovation research teams and strengthen their research and commercialization capacity in areas identified as useful to strategic clusters and innovative firms in the state;

(B) Identification of the funding necessary for laboratory infrastructure needed to house innovation research teams;

(C) Specification of the most promising research areas meriting enhanced resources and recruitment of significant entrepreneurial researchers to join or lead innovation research teams;

(D) The most productive approaches to take in the recruitment, in the identified promising research areas, of a minimum of ten significant entrepreneurial researchers over the next ten years to join or lead innovation research teams;

(E) Steps to take in solicitation of private sector support for the recruitment of entrepreneurial researchers and the commercialization activity of innovation research teams; and

(F) Mechanisms for ensuring the location of innovation research teams in innovation partnership zones;

(ii) Provide direction for the development of comprehensive entrepreneurial assistance programs at research institutions. The programs may involve multidisciplinary students, faculty, entrepreneurial researchers, entrepreneurs, and investors in building business models and evolving business plans around innovative ideas. The programs may provide technical assistance and the support of an entrepreneur-in-residence to innovation research teams and offer entrepreneurial training to faculty, researchers, undergraduates, and graduate students. Curriculum leading to a certificate in entrepreneurship may also be offered;

(e) Develop performance measures to be used in evaluating the performance of innovation research teams, the implementation of the plan and programs under (d)(i) and (ii) of this subsection, and the performance of innovation partnership zone grant recipients, including but not limited to private investment measures, business initiation measures, job creation measures, and measures of innovation such as licensing of ideas in research institutions, patents, or other recognized measures of innovation. The performance measures developed shall be consistent with the economic development commission's comprehensive plan for economic development and its standards and metrics for program evaluation. The commission shall report to the legislature and the governor by December 31, 2008, on the measures developed; and

(f) Using the performance measures developed, perform a biennial assessment and report, the first of which shall be due December 31, 2012, on:

(i) Commercialization of technologies developed at state universities, found at other research institutions in the state, and facilitated with public assistance at existing companies;

(ii) Outcomes of the funding of innovation research teams and recruitment of significant entrepreneurial researchers;

(iii) Comparison with other states of Washington's outcomes from the innovation research teams and efforts to recruit significant entrepreneurial researchers; and

(iv) Outcomes of the grants for innovation partnership zones.

The report shall include recommendations for modifications of this act and of state commercialization efforts that would enhance the state's economic competitiveness.

(2) The economic development commission and the workforce training and education coordinating board shall jointly convene a working group to:

(a) Specify the process and criteria for identification of substate geographic concentrations of firms or employment in an industry and the industry's customers, suppliers, supporting businesses, and institutions, which process will include the use of labor market information from the employment security department and local labor markets; and

(b) Establish criteria for identifying strategic clusters which are important to economic prosperity in the state, considering cluster size, growth rate, and wage levels among other factors.

**NEW SECTION. Sec. 5.** A new section is added to chapter 43.330 RCW to read as follows:

The innovation partnership fund is created in the custody of the state treasurer. Only the state economic development commission, with the concurrence of the higher education coordinating board, may authorize expenditures from the fund. Expenditures from the fund may be made only for the purposes of section 4 of this act. Revenues to the fund consist of transfers or appropriations made by the legislature, transfers made by state research institutions, and private donations.

**NEW SECTION. Sec. 6.** A new section is added to chapter 43.330 RCW to read as follows:

For the purposes of this act, "commercialization" means a sequence of steps, including technology transfer, technical assistance in product development, production process design, and technical skills development, necessary to achieve market entry and general market competitiveness of innovative technologies, processes, and products."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kastama and Zarelli to Substitute House Bill No. 1091.

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

MOTION

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

On page 1, line 1 of the title, after "zones;" strike the remainder of the title and insert "adding new sections to chapter 43.330 RCW; and creating a new section."

MOTION

On motion of Senator Kastama, the rules were suspended, Substitute House Bill No. 1091 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 Kastama 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. 1091 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1091 as amended by the Senate and the bill passed the Senate by the following vote:

Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Berkey, Brandland, Brown, Carrell, Clements, Eide, Fairley, Franklin, Fraser, 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, Weinstein and Zarelli - 45

Excused: Senators Benton, Delvin, Hargrove and Tom - 4

SUBSTITUTE HOUSE BILL NO. 1091 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.

#### INTRODUCTION OF SPECIAL GUESTS

The President introduced his son, Adam, and his father-in-law, Mr. Allen Jolly, who were seated at the rostrum.

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1573, by House Committee on Appropriations (originally sponsored by Representatives Quall, Priest, P. Sullivan, Pettigrew, Kenney, Kagi, Wallace, McCoy, Dickerson, Lovick, Santos, Hunt, Hasegawa, Simpson, Pedersen, Morrell, Conway, Lantz, O'Brien and Ormsby)

Authorizing a statewide program for comprehensive dropout prevention, intervention, and retrieval.

The measure was read the second time.

#### MOTION

Senator McAuliffe 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.** It is the intent of the legislature that increasing academic success and increasing graduation rates be dual goals for the K-12 system. The legislature finds that only seventy-four percent of the class of 2005 graduated on time. Students of color, students living in poverty, students in foster care, students in the juvenile justice system, students who are homeless, students for whom English is not their primary language, and students with disabilities have lower graduation rates than the average. The legislature further finds that students who drop out experience more frequent occurrences of early pregnancy, delinquency, substance abuse, and mental health issues, and have greater need of publicly funded health and social services. The legislature further finds that helping all students be successful in school requires active participation in coordinating services from schools, parents, and other stakeholders and agencies in the local community. The legislature finds that existing resources to vulnerable youth are used more efficiently and effectively when there is significant coordination across local and state entities. The legislature further finds that efficiency and accountability of the K-12 system would be improved by creating a dropout prevention and intervention grant program that implements research-based and emerging best practices and evaluates results.

**NEW SECTION. Sec. 2.** Subject to the availability of funds appropriated for this purpose, the office of the superintendent of public instruction shall create a grant program and award grants to local partnerships of schools, families, and communities to begin the phase in of a statewide comprehensive dropout prevention, intervention, and retrieval system. This program shall be known as the building bridges program.

(1) For purposes of sections 2 through 7 of this act, a "building bridges program" means a local partnership of schools, families, and communities that provides all of the following programs or activities:

(a) A system that identifies individual students at risk of dropping out from middle through high school based on local predictive data, including state assessment data starting in the fourth grade, and provides timely interventions for such students and for dropouts, including a plan for educational success as already required by the student learning plan as defined under RCW 28A.655.061. Students identified shall include foster care youth, youth involved in the juvenile justice system, and students receiving special education services under chapter 28A.155 RCW;

(b) Coaches or mentors for students as necessary;

(c) Staff responsible for coordination of community partners that provide a seamless continuum of academic and nonacademic support in schools and communities;

(d) Retrieval or reentry activities; and

(e) Alternative educational programming, including, but not limited to, career and technical education exploratory and preparatory programs and online learning opportunities.

(2) One of the grants awarded under this section shall be for a two-year demonstration project focusing on providing fifth through twelfth grade students with a program that utilizes technology and is integrated with state standards, basic academics, cross-cultural exposures, and age-appropriate preemployment training. The project shall:

(a) Establish programs in two western Washington and one eastern Washington urban areas;

(b) Identify at-risk students in each of the distinct communities and populations and implement strategies to close the achievement gap;

(c) Collect and report data on participant characteristics and outcomes of the project, including the characteristics and outcomes specified under section 3(1)(e) of this act; and

(d) Submit a report to the legislature by December 1, 2009.

**NEW SECTION. Sec. 3.** (1) The office of the superintendent of public instruction shall:

(a) Identify criteria for grants and evaluate proposals for funding in consultation with the workforce training and education coordinating board;

(b) Develop and monitor requirements for grant recipients to:

(i) Identify students who both fail the Washington assessment of student learning and drop out of school;

(ii) Identify their own strengths and gaps in services provided to youth;

(iii) Set their own local goals for program outcomes;

(iv) Use research-based and emerging best practices that lead to positive outcomes in implementing the building bridges program; and

(v) Coordinate an outreach campaign to bring public and private organizations together and to provide information about the building bridges program to the local community;

(c) In setting the requirements under (b) of this subsection, encourage creativity and provide for flexibility in implementing the local building bridges program;

(d) Identify and disseminate successful practices;

(e) Develop requirements for grant recipients to collect and report data, including, but not limited to:

(i) The number of and demographics of students served including, but not limited to, information regarding a student's race and ethnicity, a student's household income, a student's

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housing status, whether a student is a foster youth or youth involved in the juvenile justice system, whether a student is disabled, and the primary language spoken at a student's home;

- (ii) Washington assessment of student learning scores;
- (iii) Dropout rates;
- (iv) On-time graduation rates;
- (v) Extended graduation rates;
- (vi) Credentials obtained;
- (vii) Absenteeism rates;
- (viii) Truancy rates; and
- (ix) Credit retrieval;

(f) Contract with a third party to evaluate the infrastructure and implementation of the partnership including the leveraging of outside resources that relate to the goal of the partnership. The third-party contractor shall also evaluate the performance and effectiveness of the partnerships relative to the type of entity, as identified in section 4 of this act, serving as the lead agency for the partnership; and

(g) Report to the legislature by December 1, 2008.

(2) In performing its duties under this section, the office of the superintendent of public instruction is encouraged to consult with the work group identified in section 7 of this act.

**NEW SECTION. Sec. 4.** In awarding the grants under section 2 of this act, the office of the superintendent of public instruction shall prioritize schools or districts with dropout rates above the statewide average and shall attempt to award building bridges program grants to different geographic regions of the state. Eligible recipients shall be one of the following entities acting as a lead agency for the local partnership: A school district, a tribal school, an area workforce development council, an educational service district, an accredited institution of higher education, a vocational skills center, a federally recognized tribe, a community organization, or a nonprofit 501(c)(3) corporation. If the recipient is not a school district, at least one school district must be identified within the partnership. The superintendent of public instruction shall ensure that equal consideration is given to school districts and other recipients.

**NEW SECTION. Sec. 5.** To be eligible for a grant under section 2 of this act, grant applicants shall:

(1) Build or demonstrate a commitment to building a broad-based partnership of schools, families, and community members to provide an effective and efficient building bridges program. The partnership shall consider an effective model for school-community partnerships and include local membership from, but not limited to, school districts, tribal schools, secondary career and technical education programs, skill centers that serve the local community, an educational service district, the area workforce development council, accredited institutions of higher education, tribes or other cultural organizations, the parent teacher association, the juvenile court, prosecutors and defenders, the local health department, health care agencies, public transportation agencies, local division representatives of the department of social and health services, businesses, city or county government agencies, civic organizations, and appropriate youth-serving community-based organizations. Interested parents and students shall be actively included whenever possible;

(2) Demonstrate how the grant will enhance any dropout prevention and intervention programs and services already in place in the district;

(3) Provide a twenty-five percent match that may include in-kind resources from within the partnership;

(4) Track and report data required by the grant; and

(5) Describe how the dropout prevention, intervention, and retrieval system will be sustained after initial funding, including roles of each of the partners.

**NEW SECTION. Sec. 6.** (1) Educational service districts, in collaboration with area workforce development councils, shall:

(a) Provide technical assistance to local partnerships established under a grant awarded under section 2 of this act in collecting and using performance data; and

(b) At the request of a local partnership established under a grant awarded under section 2 of this act, provide assistance in the development of a functional sustainability plan, including the identification of potential funding sources for future operation.

(2) Local partnerships established under a grant awarded under section 2 of this act may contract with an educational service district, workforce development council, or a private agency for specialized training in such areas as cultural competency, identifying diverse learning styles, and intervention strategies for students at risk of dropping out of school.

**NEW SECTION. Sec. 7.** (1) The office of the superintendent of public instruction shall establish a state-level work group that includes K-12 and state agencies that work with youth who have dropped out or are at risk of dropping out of school. The state-level leadership group shall consist of one representative from each of the following agencies and organizations: The workforce training and education coordinating board; career and technical education including skill centers; relevant divisions of the department of social and health services; the juvenile courts; the Washington association of prosecuting attorneys; the Washington state office of public defense; the employment security department; accredited institutions of higher education; the educational service districts; the area workforce development councils; parent and educator associations; the department of health; local school districts; agencies or organizations that provide services to special education students; community organizations serving youth; federally recognized tribes and urban tribal centers; each of the major political caucuses of the senate and house of representatives; and the minority commissions.

(2) To assist and enhance the work of the building bridges programs established in section 5 of this act, the state-level work group shall:

(a) Identify and make recommendations to the legislature for the reduction of fiscal, legal, and regulatory barriers that prevent coordination of program resources across agencies at the state and local level;

(b) Develop and track performance measures and benchmarks for each partner agency or organization across the state including performance measures and benchmarks based on student characteristics and outcomes specified in section 3(1)(e) of this act; and

(c) Identify research-based and emerging best practices regarding prevention, intervention, and retrieval programs.

(3) The work group shall report to the legislature and the governor on an annual basis beginning December 1, 2007, with recommendations for implementing emerging best practices, needed additional resources, and eliminating barriers.

**NEW SECTION. Sec. 8.** Sections 2 through 7 of this act are each added to chapter 28A.175 RCW.

**NEW SECTION. Sec. 9.** 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."

MOTION

Senator Zarelli moved that the following amendment by Senators Zarelli and McAuliffe to the committee striking amendment be adopted.

On page 4, beginning on line 21 of the amendment, after "that" strike "equal consideration is given to school districts and other recipients" and insert "grants are distributed proportionately between school districts and other recipients. This requirement may be waived if the superintendent of public instruction finds that the quality of the programs or applications from these entities does not warrant the awarding of the grants

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proportionately"

Senators Zarelli and McAuliffe spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Zarelli and McAuliffe on page 4, line 21 to the committee striking amendment to Second Substitute House Bill No. 1573.

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

#### MOTION

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

On page 6, after line 27 of the amendment, insert the following:

**"NEW SECTION. Sec. 8.** (1) During the 2007-2009 biennium, school districts that contract with eligible alternative educational service providers to provide education programs, including GED preparation, that generate course credits towards high school graduation, for students who are at risk of dropping out of school, or who have dropped out of school, may continue to use basic education allocations under RCW 28A.150.250 to fund contracts with those providers. For purposes of this section, "eligible alternative educational service providers" includes community and technical colleges and community-based organizations that meet all state requirements for receiving state K-12 formula allocations.

(2) All school districts with contracts with eligible alternative educational service providers shall provide information to the office of the superintendent of public instruction including, but not limited to: (a) The number of students enrolled in those programs; (b) the amount of weekly instructional hours provided; (c) the location of the instruction program provided; and (d) the number and types of staff providing the instruction in the programs. By December 1, 2008, the office of the superintendent of public instruction shall submit a report to the office of financial management and the appropriate policy and fiscal committees of the legislature that summarizes the information provided by the school districts pursuant to this subsection.

(3) The state-level work group established under section 7 of this act shall examine issues related to school districts' use of basic education allocations under this section including, but not limited to, findings or other relevant communications by the state auditor. The work group shall develop recommendations and submit a report to the appropriate legislative committees by December 1, 2009."

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

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

The President declared the question before the Senate to be the adoption of the amendment by Senator McAuliffe on page 6, after line 27 to the committee striking amendment to Second Substitute House Bill No. 1573.

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means as amended to Second Substitute

House Bill No. 1573.

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

#### MOTION

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

On page 1, line 1 of the title, after "retrieval;" strike the remainder of the title and insert "adding new sections to chapter 28A.175 RCW; creating new sections; and providing an expiration date."

#### MOTION

On motion of Senator McAuliffe, the rules were suspended, Second Substitute House Bill No. 1573 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe and Holmquist spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1573 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1573 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, Brown, Carrell, Clements, 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, Weinstein and Zarelli - 47

Excused: Senators Delvin and Tom - 2

SECOND SUBSTITUTE HOUSE BILL NO. 1573 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

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

#### MOTION

Senator Spanel moved adoption of the following resolution:

#### SENATE RESOLUTION 8649

By Senators Spanel and Haugen

WHEREAS, Imogene Bowen was born to Oscar Washington and Gertrude Martin Washington on April 9, 1935, in Sauk, Washington; and

WHEREAS, Imogene's great-grandfather was a well-known Upper Skagit Tribal religious leader and her grandfather served as a Bishop of the Northwest Indian Shaker Church; and

WHEREAS, Imogene graduated from Chemawa Indian Boarding School in 1953 as her class valedictorian; Antioch School of Law in 1978 with her paralegal degree; Skagit Valley College with an associate of arts degree; and Western

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Washington University with honors in 1987 with a bachelor's degree in political science; and

WHEREAS, Public service became the heart of Imogene's work as shown in her positions as prosecutor for Skagit Systems Cooperative; member of the Upper Skagit Tribal Council; founding member of the Board of the Cascade Inter-Tribal Housing Authority; elected delegate to the Democratic National Convention; Chair of the Skagit Valley Democratic Party; delegate to the International Peace Education Conference; president of the Washington State Rainbow Coalition; member of the Board of the Washington Wildlife and Recreation Coalition; member of the Governor's "Citizen Cabinet" from 1992 to 1996; and member of the Board of Skagit County Youthnet; and

WHEREAS, Imogene was an avid advocate for peace, racial understanding, workers' rights, and environmental protection; and

WHEREAS, Imogene received the award as a member of the Skagit Valley College Hall of Fame for Distinguished Alumni in recognition of her achievements; and

WHEREAS, On January 5, 2007, Imogene Bowen passed away in her Mount Vernon home at age 71 surrounded by her children, grandchildren, and many friends; and

WHEREAS, Tribute is due to Imogene Bowen for her caring spirit, outstanding public service, and her tireless effort on behalf of those without a political voice;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor Imogene Bowen for her contributions to all Washingtonians and the state itself; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Washington State Senate, members of the Bowen family, and the Upper Skagit Tribal Council.

Senators Spanel, Haugen and Franklin spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8649.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of Ms. Imogene Bowen's family who were seated in the gallery.

MOTION

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

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1500, by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Williams, Chase, Kenney, Wood and Moeller)

Modifying provisions on permanent partial disability claims.

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 1500 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.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1500.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1500 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yeas: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, 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, Weinstein and Zarelli - 47

Excused: Senators Delvin and Tom - 2

SUBSTITUTE HOUSE BILL NO. 1500, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1636, by House Committee on Appropriations (originally sponsored by Representatives Simpson, B. Sullivan, Dunshee, Upthegrove, McCoy, Dickerson, P. Sullivan, Morrell, Sells and Rolfes)

Creating a regional transfer of development rights program.

The measure was read the second time.

MOTION

Senator Jacobsen moved that the following committee striking amendment by the Committee on Natural Resources, Ocean & Recreation be adopted.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that current concern over the rapid and increasing loss of rural, agricultural, and forested land has led to the exploration of creative approaches to preserving these important lands. The legislature finds also that the creation of a regional transfer of development rights marketplace will assist in slowing the conversion of these lands.

The legislature further finds that transferring development rights is a market-based technique that encourages the voluntary transfer of growth from places where a community would like to see less development, referred to as sending areas, to places where a community would like to see more development, referred to as receiving areas. Under this technique, permanent deed restrictions are placed on the sending area properties to ensure that the land will be used only for approved activities such as farming, forest management, conservation, or passive recreation. Also under this technique, the costs of purchasing the recorded development restrictions are borne by the developers who receive the building credit or bonus.

Accordingly, the legislature has determined that it is good public policy to build upon existing transfer of development rights programs, pilot projects, and private initiatives that foster effective use of transferred development rights through the creation of a market-based program that focuses on the central Puget Sound region.

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

(1) "Department" means the department of community, trade, and economic development.

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(2) "Nongovernmental entities" includes nonprofit or membership organizations with experience or expertise in transferring development rights.

(3) "Transfer of development rights" includes methods for protecting land from development by voluntarily removing the development rights from a sending area and transferring them to a receiving area for the purpose of increasing development density in the receiving area.

**NEW SECTION. Sec. 3.** Subject to the availability of amounts appropriated for this specific purpose, the department shall fund a process to develop a regional transfer of development rights program that comports with chapter 36.70A RCW that:

(1) Encourages King, Kitsap, Pierce, and Snohomish counties, and the cities within these counties, to participate in the development and implementation of regional frameworks and mechanisms that make transfer of development rights programs viable and successful. The department shall encourage and embrace the efforts in any of these counties or cities to develop local transfer of development rights programs. In fulfilling the requirements of this chapter, the department shall work with the Puget Sound regional council and its growth management policy board to develop a process that satisfies the requirements of this chapter. In the development of a process to create a regional transfer of development rights program, the Puget Sound regional council and its growth management policy board shall develop policies to discourage, or prohibit if necessary, the transfer of development rights from a sending area that would negatively impact the future economic viability of the sending area. The department shall also work with an advisory committee to develop a regional transfer of development rights marketplace that includes, but is not limited to, supporting strategies for financing infrastructure and conservation. The department shall establish an advisory committee of seven stakeholders with representatives of the following interests:

(a) Two qualified nongovernmental organizations with expertise in the transfer of development rights. At least one organization must have a statewide expertise in growth management planning and in the transfer of development rights and at least one organization must have a local perspective on market-based conservation strategies and transfer of development rights;

(b) Two representatives from real estate and development;

(c) One representative with a county government perspective; and

(d) Two representatives from cities of different sizes and geographic areas within the four-county region; and

(2) Allows the department to utilize recommendations of the interested local governments, nongovernmental entities, and the Puget Sound regional council to develop recommendations and strategies for a regional transfer of development rights marketplace with supporting strategies for financing infrastructure and conservation that represents the consensus of the governmental and nongovernmental parties engaged in the process. However, if agreement between the parties cannot be reached, the department shall make recommendations to the legislature that seek to balance the needs and interests of the interested governmental and nongovernmental parties. The department may contract for expertise to accomplish any of the following tasks. Recommendations developed under this subsection must:

(a) Identify opportunities for cities, counties, and the state to achieve significant benefits through using transfer of development rights programs and the value in modifying criteria by which capital budget funds are allocated, including but not limited to, existing state grant programs to provide incentives for local governments to implement transfer of development rights programs;

(b) Address challenges to the creation of an efficient and transparent transfer of development rights market, including the

creation of a transfer of development rights bank, brokerage, or direct buyer-seller exchange;

(c) Address issues of certainty to buyers and sellers of development rights that address long-term environmental benefits and perceived inequities in land values and permitting processes;

(d) Address the means for assuring that appropriate values are recognized and updated, as well as specifically addressing the need to maintain the quality of life in receiving neighborhoods and the protection of environmental values over time;

(e) Identify opportunities and challenges that, if resolved, would result in cities throughout the Puget Sound region participating in a transfer of development rights market;

(f) Compare the uses of a regional transfer of development rights program to other existing land conservation strategies to protect rural and resource lands and implement the growth management act; and

(g) Identify appropriate sending areas so as to protect future growth and economic development needs of the sending areas.

**NEW SECTION. Sec. 4.** The department shall submit recommendations, findings, and legislative recommendations according to the following schedule:

(1) By December 1, 2007, the department shall notify the governor and the appropriate committees of the legislature of any recommended actions for advancing the purposes of this act.

(2) By December 1, 2008, the department shall notify the governor and the appropriate committees of the legislature of findings and legislative recommendations to implement a regional transfer of development rights program.

**NEW SECTION. Sec. 5.** Sections 1 through 3 of this act constitute a new chapter in Title 43 RCW."

#### MOTION

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

On page 2, line 31 of the amendment, after "of" strike "seven" and insert "nine"

On page 3, line 4 of the amendment, after "perspective;" strike "and"

On page 3, after line 6 of the amendment, insert the following:

"(e) Two representatives of the agricultural industry; and"

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Jacobsen on page 2, line 31 to the committee striking amendment to Second Substitute House Bill No. 1636.

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Natural Resources, Ocean & Recreation as amended to Second Substitute House Bill No. 1636.

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

#### MOTION

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

On page 1, line 2 of the title, after "program;" strike the remainder of the title and insert "adding a new chapter to Title 43 RCW; and creating a new section."

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On motion of Senator Jacobsen, the rules were suspended, Second Substitute House Bill No. 1636 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1636 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1636 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, 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, Weinstein and Zarelli - 46

Voting nay: Senator Holmquist - 1

Excused: Senators Delvin and Tom - 2

SECOND SUBSTITUTE HOUSE BILL NO. 1636 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1088, by House Committee on Appropriations (originally sponsored by Representatives Dickerson, Kagi, Haler, Cody, Appleton, Darnelle, Simpson, Takko, Kenney, Williams, Green, McDermott, Roberts, Lantz, McCoy, Ormsby, Schual-Berke, B. Sullivan, Hurst, Pettigrew, O'Brien, Lovick, P. Sullivan, Hasegawa, Hunt, Hudgins, Clibborn, Upthegrove, Morrell, Conway, Sells, Haigh, Quall, Moeller, Goodman, Wallace, Wood and Santos)

Improving delivery of children's mental health services.

The measure was read the second time.

MOTION

Senator Hargrove 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:

"Sec. 1. RCW 71.36.005 and 1991 c 326 s 11 are each amended to read as follows:

The legislature intends to ~~((encourage the development of community-based interagency collaborative efforts to plan for and provide mental health services to children in a manner that))~~ substantially improve the delivery of children's mental health services in Washington state through the development and implementation of a children's mental health system that:

(1) Values early identification, intervention, and prevention;

(2) Coordinates existing categorical children's mental health programs and funding, through efforts that include elimination of duplicative care plans and case management;

(3) Treats each child in the context of his or her family, and provides services and supports needed to maintain a child with his or her family and community;

(4) Integrates families into treatment through choice of treatment, participation in treatment, and provision of peer support;

(5) Focuses on resiliency and recovery;

(6) Relies to a greater extent on evidence-based practices;

(7) Is sensitive to the unique cultural circumstances of children of color(~~(- eliminates duplicative case management,))~~ and children in families whose primary language is not English;

(8) Integrates educational support services that address students' diverse learning styles; and

(9) To the greatest extent possible, blends categorical funding to offer more service and support options to each child.

Sec. 2. RCW 71.36.010 and 1991 c 326 s 12 are each amended to read as follows:

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

(1) "Agency" means a state, tribal, or local governmental entity or a private not-for-profit organization.

(2) "Child" means a person under eighteen years of age, except as expressly provided otherwise in state or federal law.

(3) "Consensus-based" means a program or practice that has general support among treatment providers and experts, based on experience or professional literature, and may have anecdotal or case study support, or that is agreed but not possible to perform studies with random assignment and controlled groups.

(4) "County authority" means the board of county commissioners or county executive.

~~((+))~~ (5) "Department" means the department of social and health services.

~~((5))~~ (6) "Early periodic screening, diagnosis, and treatment" means the component of the federal medicaid program established pursuant to 42 U.S.C. Sec. 1396d(r), as amended.

~~((6))~~ (7) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population.

(8) "Family" means a child's biological parents, adoptive parents, foster parents, guardian, legal custodian authorized pursuant to Title 26 RCW, a relative with whom a child has been placed by the department of social and health services, or a tribe.

(9) "Promising practice" or "emerging best practice" means a practice that presents, based upon preliminary information, potential for becoming a research-based or consensus-based practice.

(10) "Regional support network" means a county authority or group of county authorities or other nonprofit entity that ~~((have))~~ has entered into contracts with the secretary pursuant to chapter 71.24 RCW.

~~((7))~~ (11) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(12) "Secretary" means the secretary of social and health services.

(13) "Wraparound process" means a family driven planning process designed to address the needs of children and youth by the formation of a team that empowers families to make key decisions regarding the care of the child or youth in partnership with professionals and the family's natural community supports. The team produces a community-based and culturally competent intervention plan which identifies the strengths and needs of the child or youth and family and defines goals that the team collaborates on achieving with respect for the unique cultural values of the family. The "wraparound process" shall emphasize

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principles of persistence and outcome-based measurements of success.

**NEW SECTION. Sec. 3.** A new section is added to chapter 71.36 RCW to read as follows:

**ELEMENTS OF A CHILDREN'S MENTAL HEALTH SYSTEM.** (1) It is the goal of the legislature that, by 2012, the children's mental health system in Washington state include the following elements:

(a) A continuum of services from early identification, intervention, and prevention through crisis intervention and inpatient treatment, including peer support and parent mentoring services;

(b) Equity in access to services for similarly situated children, including children with co-occurring disorders;

(c) Developmentally appropriate, high quality, and culturally competent services available statewide;

(d) Treatment of each child in the context of his or her family and other persons that are a source of support and stability in his or her life;

(e) A sufficient supply of qualified and culturally competent children's mental health providers;

(f) Use of developmentally appropriate evidence-based, research-based, promising, or consensus-based practices;

(g) Integrated and flexible services to meet the needs of children who, due to mental illness or emotional or behavioral disturbance, are at risk of out-of-home placement or involved with multiple child-serving systems.

(2) The effectiveness of the children's mental health system shall be determined through the use of outcome-based performance measures. The department and the evidence-based practice institute established in section 7 of this act, in consultation with parents, caregivers, youth, regional support networks, mental health services providers, health plans, primary care providers, tribes, and others, shall develop outcome-based performance measures such as:

(a) Decreased emergency room utilization;

(b) Decreased psychiatric hospitalization;

(c) Lessening of symptoms, as measured by commonly used assessment tools;

(d) Decreased out-of-home placement, including residential, group, and foster care, and increased stability of such placements, when necessary;

(e) Decreased runaways from home or residential placements;

(f) Decreased rates of chemical dependency;

(g) Decreased involvement with the juvenile justice system;

(h) Improved school attendance and performance;

(i) Reductions in school or child care suspensions or expulsions;

(j) Reductions in use of prescribed medication where cognitive behavioral therapies are indicated;

(k) Improved rates of high school graduation and employment; and

(l) Decreased use of mental health services upon reaching adulthood for mental disorders other than those that require ongoing treatment to maintain stability.

Performance measure reporting for children's mental health services should be integrated into existing performance measurement and reporting systems developed and implemented under chapter 71.24 RCW.

**NEW SECTION. Sec. 4. REGIONAL SUPPORT NETWORK SERVICES--CHILDREN'S ACCESS TO CARE STANDARDS AND BENEFIT PACKAGE.** As part of the system transformation initiative, the department of social and health services shall undertake the following activities related specifically to children's mental health services:

(1) The development of recommended revisions to the access to care standards for children. The recommended revisions shall reflect the policies and principles set out in RCW 71.36.005, 71.36.010, and section 3 of this act, and recognize that early identification, intervention and prevention services,

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and brief intervention services may be provided outside of the regional support network system. Revised access to care standards shall assess a child's need for mental health services based upon the child's diagnosis and its negative impact upon his or her persistent impaired functioning in family, school, or the community, and should not solely condition the receipt of services upon a determination that a child is engaged in high risk behavior or is in imminent need of hospitalization or out-of-home placement. Assessment and diagnosis for children under five years of age shall be determined using a nationally accepted assessment tool designed specifically for children of that age. The recommendations shall also address whether amendments to RCW 71.24.025 (26) and (27) and 71.24.035(5) are necessary to implement revised access to care standards;

(2) Development of a revised children's mental health benefit package. The department shall ensure that services included in the children's mental health benefit package reflect the policies and principles included in RCW 71.36.005 and section 3 of this act, to the extent allowable under medicaid, Title XIX of the federal social security act. Strong consideration shall be given to developmentally appropriate evidence-based, research-based, promising, or consensus-based practices, family-based interventions, the use of natural and peer supports, and community support services. This effort shall include a review of other states' efforts to fund family-centered children's mental health services through their medicaid programs;

(3) Consistent with the timeline developed for the system transformation initiative, recommendations for revisions to the children's access to care standards and the children's mental health services benefits package shall be presented to the legislature by January 1, 2009.

**NEW SECTION. Sec. 5.** A new section is added to chapter 74.09 RCW to read as follows:

**IMPROVING MEDICATION MANAGEMENT AND CARE COORDINATION.** (1)(a) The department, in consultation with the evidence-based practice institute established in section 7 of this act, shall develop and implement policies to improve prescribing practices for treatment of emotional or behavioral disturbances in children, improve the quality of children's mental health therapy through increased use of evidence-based, research-based, promising, or consensus-based practices and reduced variation in practice, improve communication and care coordination between primary care and mental health providers, and prioritize care in the family home or care which integrates the family where out-of-home placement is required.

(b) The department shall identify those children with emotional or behavioral disturbances who may be at high risk due to off-label use of prescription medication, use of multiple medications, high medication dosage, or lack of coordination among multiple prescribing providers, and establish one or more mechanisms to evaluate the appropriateness of the medication these children are using, including but not limited to obtaining second opinions from experts in child psychiatry.

(c) The department shall review the psychotropic medications of all children under five and establish one or more mechanisms to evaluate the appropriateness of the medication these children are using, including but not limited to obtaining second opinions from experts in child psychiatry.

(d) The department shall track prescriptive practices with respect to psychotropic medications with the goal of reducing the use of medication.

(e) The department shall encourage the use of cognitive behavioral therapies and other treatments which are empirically supported or evidence-based, in addition to or in the place of prescription medication where appropriate.

(2) The department shall convene a representative group of regional support networks, community mental health centers, and managed health care systems contracting with the department under RCW 74.09.522 to:



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(a) Establish mechanisms and develop contract language that ensures increased coordination of and access to medicaid mental health benefits available to children and their families, including ensuring access to services that are identified as a result of a developmental screen administered through early periodic screening, diagnosis, and treatment;

(b) Define managed health care system and regional support network contractual performance standards that track access to and utilization of services; and

(c) Set standards for reducing the number of children that are prescribed antipsychotic drugs and receive no outpatient mental health services with their medication.

(3) The department shall report on progress and any findings under this section to the legislature by January 1, 2009.

**NEW SECTION. Sec. 6.** A new section is added to chapter 71.36 RCW to read as follows:

**MEDICAID ELIGIBLE CHILDREN IN TEMPORARY JUVENILE DETENTION.** The department shall explore the feasibility of obtaining a medicaid state plan amendment to allow the state to receive medicaid matching funds for health services provided to medicaid enrolled youth who are temporarily placed in a juvenile detention facility. Temporary placement shall be defined as until adjudication or up to sixty continuous days, whichever occurs first.

**NEW SECTION. Sec. 7.** A new section is added to chapter 71.24 RCW to read as follows:

**CHILDREN'S MENTAL HEALTH PROVIDERS.** (1) The department shall provide flexibility in provider contracting to regional support networks for children's mental health services. Beginning with 2007-2009 biennium contracts, regional support network contracts shall authorize regional support networks to allow and encourage licensed community mental health centers to subcontract with individual licensed mental health professionals when necessary to meet the need for an adequate, culturally competent, and qualified children's mental health provider network.

(2) To the extent that funds are specifically appropriated for this purpose or that nonstate funds are available, a children's mental health evidence-based practice institute shall be established at the University of Washington division of public behavioral health and justice policy. The institute shall closely collaborate with entities currently engaged in evaluating and promoting the use of evidence-based, research-based, promising, or consensus-based practices in children's mental health treatment, including but not limited to the University of Washington department of psychiatry and behavioral sciences, children's hospital and regional medical center, the University of Washington school of nursing, the University of Washington school of social work, and the Washington state institute for public policy. To ensure that funds appropriated are used to the greatest extent possible for their intended purpose, the University of Washington's indirect costs of administration shall not exceed ten percent of appropriated funding. The institute shall:

(a) Improve the implementation of evidence-based, research-based, promising, or consensus-based practices by providing sustained and effective training and consultation to licensed children's mental health providers and child-serving agencies who are implementing evidence-based or promising practices for treatment of children's emotional or behavioral disorders, or who are interested in adapting these practices to better serve ethnically or culturally diverse children. Efforts under this subsection should include a focus on appropriate oversight of implementation of evidence-based practices to ensure fidelity to these practices and thereby achieve positive outcomes;

(b) Continue the successful implementation of the "partnerships for success" model by consulting with communities so they may select, implement, and continually evaluate the success of evidence-based practices that are

relevant to the needs of children, youth, and families in their community;

(c) Partner with youth, family members, family advocacy, and culturally competent provider organizations to develop a series of information sessions, literature, and on-line resources for families to become informed and engaged in evidence-based, research-based, promising, or consensus-based practices;

(d) Participate in the identification of outcome-based performance measures under section 3(2) of this act and partner in a statewide effort to implement statewide outcomes monitoring and quality improvement processes; and

(e) Serve as a statewide resource to the department and other entities on child and adolescent evidence-based, research-based, promising, or consensus-based practices for children's mental health treatment, maintaining a working knowledge through ongoing review of academic and professional literature, and knowledge of other evidence-based practice implementation efforts in Washington and other states.

(3) To the extent that funds are specifically appropriated for this purpose, the department in collaboration with the evidence-based practice institute shall implement a pilot program to support primary care providers in the assessment and provision of appropriate diagnosis and treatment of children with mental and behavioral health disorders and track outcomes of this program. The program shall be designed to promote more accurate diagnoses and treatment through timely case consultation between primary care providers and child psychiatric specialists, and focused educational learning collaboratives with primary care providers.

**NEW SECTION. Sec. 8.** A new section is added to chapter 74.09 RCW to read as follows:

(1) The department shall adopt rules and policies providing that when youth who were enrolled in a medical assistance program immediately prior to confinement are released from confinement, their medical assistance coverage will be fully reinstated on the day of their release, subject to any expedited review of their continued eligibility for medical assistance coverage that is required under federal or state law.

(2) The department, in collaboration with county juvenile court administrators and regional support networks, shall establish procedures for coordination between department field offices, juvenile rehabilitation administration institutions, and county juvenile courts that result in prompt reinstatement of eligibility and speedy eligibility determinations for youth who are likely to be eligible for medical assistance services upon release from confinement. Procedures developed under this subsection must address:

(a) Mechanisms for receiving medical assistance services' applications on behalf of confined youth in anticipation of their release from confinement;

(b) Expedited review of applications filed by or on behalf of confined youth and, to the extent practicable, completion of the review before the youth is released; and

(c) Mechanisms for providing medical assistance services' identity cards to youth eligible for medical assistance services immediately upon their release from confinement.

(3) For purposes of this section, "confined" or "confinement" means detained in a facility operated by or under contract with the department of social and health services, juvenile rehabilitation administration, or detained in a juvenile detention facility operated under chapter 13.04 RCW.

(4) The department shall adopt standardized statewide screening and application practices and forms designed to facilitate the application of a confined youth who is likely to be eligible for a medical assistance program.

**NEW SECTION. Sec. 9.** Educational service district boards may partner with regional support networks to respond to a request for proposal for operation of a wraparound model site under this act and, if selected, may contract for the provision of services to coordinate care and facilitate the delivery of services and other supports under a wraparound model.

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**NEW SECTION. Sec. 10.** WRAPAROUND MODEL OF INTEGRATED CHILDREN'S MENTAL HEALTH SERVICES DELIVERY. To the extent funds are specifically appropriated for this purpose, the department of social and health services shall contract for implementation of a wraparound model of integrated children's mental health services delivery in up to three counties in Washington state.

(1) Funding provided may be expended for: Costs associated with a request for proposal and contracting process; administrative costs associated with successful bidders' operation of the wraparound model; the evaluation under subsection (5) of this section; and funding for services needed by children enrolled in wraparound model sites that are not otherwise covered under existing state programs. The services provided through the wraparound model sites shall include, but not be limited to, services covered under the medicaid program. The department shall maximize the use of medicaid and other existing state-funded programs as a funding source. However, state funds provided may be used to develop a broader service package to meet needs identified in a child's care plan. Amounts provided shall supplement, and not supplant, state, local, or other funding for services that a child being served through a wraparound site would otherwise be eligible to receive.

(2) The wraparound model sites shall serve children with serious emotional or behavioral disturbances who are at high risk of residential or correctional placement or psychiatric hospitalization, and who have been referred for services from the department, a county juvenile court, a tribal court, a school, or a licensed mental health provider or agency.

(3) Through a request for proposal process, the department shall contract, with educational service districts, regional support networks, or entities licensed to provide mental health services to children with serious emotional or behavioral disturbances, to operate the wraparound model sites. The contractor shall provide care coordination and facilitate the delivery of services and other supports to families using a strength-based, highly individualized wraparound process. The request for proposal shall require that the contractor provide evidence of commitments from at least the following entities to participate in wraparound care plan development and service provision when appropriate: Regional support networks, community mental health agencies, schools, the department of social and health services children's administration, juvenile courts, the department of social and health services juvenile rehabilitation administration, and managed health care systems contracting with the department under RCW 74.09.522.

(4) Contracts for operation of the wraparound model sites shall be executed on or before April 1, 2008, with enrollment and service delivery beginning on or before July 1, 2008.

(5) The evidence-based practice institute established in section 7 of this act shall evaluate the wraparound model sites, measuring outcomes for children served. Outcomes measured shall include, but are not limited to: Decreased out-of-home placement, including residential, group, and foster care, and increased stability of such placements, school attendance, school performance, recidivism, emergency room utilization, involvement with the juvenile justice system, and decreased hospitalization.

**NEW SECTION. Sec. 11.** A new section is added to chapter 74.09 RCW to read as follows:

(1) To the extent that funds are specifically appropriated for this purpose the department shall revise its medicaid healthy options managed care and fee-for-service program standards under medicaid, Title XIX of the federal social security act to improve access to mental health services for children who do not meet the regional support network access to care standards. Effective July 1, 2008, the program standards shall be revised to allow outpatient therapy services to be provided by licensed mental health professionals, as defined in RCW 71.34.020, and up to twenty outpatient therapy hours per calendar year, including family therapy visits integral to a child's treatment.

(2) This section expires July 1, 2010.

**NEW SECTION. Sec. 12.** The following acts or parts of acts are each repealed:

(1) RCW 71.36.020 (Plan for early periodic screening, diagnosis, and treatment services) and 2003 c 281 s 4 & 1991 c 326 s 13; and

(2) RCW 71.36.030 (Children's mental health services delivery system--Local planning efforts) and 1991 c 326 s 14.

**NEW SECTION. Sec. 13.** Captions used in this act are not part of the law.

**NEW SECTION. Sec. 14.** If specific funding for the purposes of sections 4, 5, 7, 8, 10, and 11 of this act, referencing the section by section number and by bill or chapter number, is not provided by June 30, 2007, each section not referenced 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 Ways & Means to Second Substitute House Bill No. 1088.

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

#### MOTION

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

On page 1, line 1 of the title, after "services;" strike the remainder of the title and insert "amending RCW 71.36.005 and 71.36.010; adding new sections to chapter 71.36 RCW; adding new sections to chapter 74.09 RCW; adding a new section to chapter 71.24 RCW; creating new sections; repealing RCW 71.36.020 and 71.36.030; and providing an expiration date."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Second Substitute House Bill No. 1088 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1088 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1088 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, Brown, Carrell, Clements, 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, Weinstein and Zarelli - 47

Excused: Senators Delvin and Tom - 2

SECOND SUBSTITUTE HOUSE BILL NO. 1088 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

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SUBSTITUTE HOUSE BILL NO. 1669, by House Committee on Judiciary (originally sponsored by Representatives Strow, Ericks, O'Brien, Rodne, Kirby, Haler, Eddy, Hinkle and Lantz)

Concerning the district and municipal court's probation and supervision services.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 1669 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1669.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1669 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, 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, Weinstein and Zarelli - 47

Excused: Senators Delvin and Tom - 2

SUBSTITUTE HOUSE BILL NO. 1669, 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 12:00 a.m., on motion of Senator Eide, the Senate was at recess until 1:30 p.m.

AFTERNOON SESSION

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

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Hatfield moved that Gubernatorial Appointment No. 9084, Max D. Anderson, as a member of the Board of Trustees, Lower Columbia Community College District No. 13, be confirmed.

Senator Hatfield spoke in favor of the motion.

MOTION

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

MOTION

On motion of Senator Regala, Senator Shin was excused.

APPOINTMENT OF MAX D. ANDERSON

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9084, Max D. Anderson as a member of the Board of Trustees, Lower Columbia Community College District No. 13.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9084, Max D. Anderson as a member of the Board of Trustees, Lower Columbia Community College District No. 13 and the appointment was confirmed by the following vote: Yeas, 43; Nays, 0; Absent, 2; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Spanel, Stevens, Swecker, Weinstein and Zarelli - 43

Absent: Senators Haugen and McCaslin - 2

Excused: Senators Morton, Pflug, Shin and Tom - 4

Gubernatorial Appointment No. 9084, Max D. Anderson, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Lower Columbia Community College District No. 13.

SECOND READING

SENATE BILL NO. 5805, by Senators Hatfield, Zarelli, Rasmussen, Swecker, Shin and Hargrove

Modifying provisions relating to the sales and use taxation of grain elevators.

MOTION

On motion of Senator Rasmussen, Second Substitute Senate Bill No. 5805 was substituted for Senate Bill No. 5805 and the second substitute bill was placed on the second reading and read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 82.08.820 and 2006 c 354 s 11 are each amended to read as follows:

(1) Wholesalers or third-party warehouse owners who own or operate warehouses ~~((or))~~, grain elevators, or large grain elevator facilities, and retailers who own or operate distribution centers, and who have paid the tax levied by RCW 82.08.020 on:

(a) Material-handling and racking equipment~~((s))~~ or large grain elevator equipment and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving ~~((the))~~ all such equipment; or

(b) Construction of a warehouse or grain elevator, or construction, remodeling, repairing, cleaning, altering, or improving of a large grain elevator, including materials, and including service and labor costs,

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are eligible for an exemption in the form of a remittance. The amount of the remittance is computed under subsection (3) of this section and is based on the state share of sales tax.

(2) For purposes of this section and RCW 82.12.820:

(a) "Agricultural products" has the meaning given in RCW 82.04.213;

(b) "Cold storage warehouse" has the meaning provided in RCW 82.74.010;

(c) "Construction" means the actual construction of a warehouse ~~((or))~~, grain elevator, or large grain elevator that did not exist before the construction began. "Construction" includes expansion, but in the case of a cold storage warehouse, only if the expansion adds at least twenty-five thousand square feet of additional space to an existing cold storage warehouse, or in the case of a warehouse other than a cold storage warehouse, only if the expansion adds at least two hundred thousand square feet of additional space to an existing warehouse other than a cold storage warehouse, or ((additional)) in the case of a grain elevator, only if the expansion adds storage capacity of at least one million bushels to an existing grain elevator. "Construction" does not include renovation, remodeling, or repair;

(d) "Department" means the department of revenue;

(e) "Distribution center" means a warehouse that is used exclusively by a retailer solely for the storage and distribution of finished goods to retail outlets of the retailer. "Distribution center" does not include a warehouse at which retail sales occur;

(f) "Finished goods" means tangible personal property intended for sale by a retailer or wholesaler. "Finished goods" does not include agricultural products stored by wholesalers, third-party warehouses, or retailers if the storage takes place on the land of the person who produced the agricultural product. "Finished goods" does not include logs, minerals, petroleum, gas, or other extracted products stored as raw materials or in bulk;

(g) "Grain elevator" means a structure used for storage and handling of grain in bulk;

(h) "Large grain elevator" means storage silos, tanks, conveyers and their supports, scale towers, bins, electrical improvements, scales, foundations, rails and rail beds, and other buildings primarily used to handle, store, organize, condition, analyze, or convey grain, oil seeds, and byproducts thereof in bulk. Office space, lunchrooms, restrooms, maintenance buildings, control and computer systems used to operate such facilities, and other space necessary for the operation of the large grain elevator are considered part of the large grain elevator as are loading docks and other such space or structures attached or adjacent to the conveyers, and other necessary devices and structures used to receive, convey, or discharge grain, oil seeds, and byproducts thereof via means of waterborne, rail, highway, or intermodal transport and used for handling of grain, oil seeds, and byproducts thereof. Roads, landscaping, and parking lots are not considered part of the large grain elevator. A storage yard is not a large grain elevator nor is a structure in which manufacturing takes place;

~~((+))~~ (i) "Large grain elevator facility" means one or more contiguous parcels of real property with one or more large grain elevators with a combined capacity of at least three million bushels;

(j) "Large grain elevator equipment" means equipment within a large grain elevator facility that is primarily used to handle, store, organize, convey, condition, or analyze grain, oil seeds, and byproducts thereof which is not defined as a large grain elevator. The term includes tangible personal property with a useful life of one year or more that becomes an ingredient or component of the equipment, including repair and replacement parts. The term does not include equipment in offices, lunchrooms, restrooms, and other like space, within a large grain elevator facility, or equipment used for nonlarge grain elevator purposes. "Large grain elevator equipment" includes but is not limited to: Samplers, air compressors, quality analyzing equipment, worker and environmental safety

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equipment, conditioning equipment used to maintain quality, lifts, positioners, cranes, hoists, mechanical arms, and robots; and forklifts and other off-the-road vehicles that are used to lift or move tangible personal property and that cannot be operated legally on roads and streets;

~~(k)~~ "Material-handling equipment and racking equipment" means equipment in a warehouse or grain elevator that is primarily used to handle, store, organize, convey, package, or repackage finished goods. The term includes tangible personal property with a useful life of one year or more that becomes an ingredient or component of the equipment, including repair and replacement parts. The term does not include equipment in offices, lunchrooms, restrooms, and other like space, within a warehouse or grain elevator, or equipment used for nonwarehousing purposes. "Material-handling equipment" includes but is not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-place units, cranes, hoists, mechanical arms, and robots; mechanized systems, including containers that are an integral part of the system, whose purpose is to lift or move tangible personal property; and automated handling, storage, and retrieval systems, including computers that control them, whose purpose is to lift or move tangible personal property; and forklifts and other off-the-road vehicles that are used to lift or move tangible personal property and that cannot be operated legally on roads and streets. "Racking equipment" includes, but is not limited to, conveying systems, chutes, shelves, racks, bins, drawers, pallets, and other containers and storage devices that form a necessary part of the storage system;

~~((+))~~ (l) "Person" has the meaning given in RCW 82.04.030;

~~((+))~~ (m) "Retailer" means a person who makes "sales at retail" as defined in chapter 82.04 RCW of tangible personal property;

~~((+))~~ (n) "Square footage" means the product of the two horizontal dimensions of each floor of a specific warehouse. The entire footprint of the warehouse shall be measured in calculating the square footage, including space that juts out from the building profile such as loading docks. "Square footage" does not mean the aggregate of the square footage of more than one warehouse at a location or the aggregate of the square footage of warehouses at more than one location;

~~((+))~~ (o) "Third-party warehouse" means a person taxable under RCW 82.04.280(4);

~~((+))~~ (p) "Warehouse" means an enclosed building or structure in which finished goods are stored. A warehouse building or structure may have more than one storage room and more than one floor. Office space, lunchrooms, restrooms, and other space within the warehouse and necessary for the operation of the warehouse are considered part of the warehouse as are loading docks and other such space attached to the building and used for handling of finished goods. Landscaping and parking lots are not considered part of the warehouse. A storage yard is not a warehouse, nor is a building in which manufacturing takes place; and

~~((+))~~ (q) "Wholesaler" means a person who makes "sales at wholesale" as defined in chapter 82.04 RCW of tangible personal property, but "wholesaler" does not include a person who makes sales exempt under RCW 82.04.330.

(3)(a) A person claiming an exemption from state tax in the form of a remittance under this section must pay the tax imposed by RCW 82.08.020. The buyer may then apply to the department for remittance of all or part of the tax paid under RCW 82.08.020. For grain elevators with bushel capacity of one million but less than two million, the remittance is equal to fifty percent of the amount of tax paid. For warehouses with square footage of two hundred thousand or more, other than cold storage warehouses, and for grain elevators with bushel capacity of two million or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, materials, service, and labor, and fifty percent of the amount of tax paid for qualifying material-handling

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equipment and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment. For cold storage warehouses with square footage of twenty-five thousand or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, materials, service, and labor, and one hundred percent of the amount of tax paid for qualifying material-handling equipment and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment. For large grain elevator facilities, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, remodeling, repairing, cleaning, altering, or improving, and materials, service, and labor of large grain elevators, and fifty percent of the amount of tax paid for qualifying large grain elevator equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment.

(b) The department shall determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer shall on a quarterly basis submit an information sheet, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer shall retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the material-handling equipment and racking equipment or large grain elevator equipment; location and size of warehouses ~~(and)~~, grain elevators, and large grain elevator facilities; and construction invoices and documents.

(c) The department shall on a quarterly basis remit exempted amounts to qualifying persons who submitted applications during the previous quarter.

(4) Warehouses, grain elevators, large grain elevators, large grain elevator equipment, and material-handling equipment and racking equipment for which an exemption, credit, or deferral has been or is being received under chapter 82.60, 82.62, or 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance under this section. Warehouses ~~(and)~~, grain elevators, and large grain elevators upon which construction was initiated before May 20, 1997, are not eligible for a remittance under this section.

(5) The lessor or owner of a warehouse ~~(or)~~, grain elevator, or large grain elevator is not eligible for a remittance under this section unless the underlying ownership of the warehouse ~~(or)~~, grain elevator, or large grain elevator, and the material-handling equipment and racking equipment or large grain elevator equipment vests exclusively in the same person, or unless the lessor by written contract agrees to pass the economic benefit of the remittance to the lessee in the form of reduced rent payments.

**Sec. 2.** RCW 82.08.820 and 2006 c 354 s 11 are each amended to read as follows:

(1) Wholesalers or third-party warehouse owners who own or operate warehouses or grain elevators and retailers who own or operate distribution centers, and who have paid the tax levied by RCW 82.08.020 on:

(a) Material-handling and racking equipment, or grain elevator equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving ~~(the)~~ all such equipment; or

(b) Construction of a warehouse, or construction, remodeling, repairing, cleaning, altering, or improving of a grain elevator, including materials, and including service and labor costs,

are eligible for an exemption in the form of a remittance. The amount of the remittance is computed under subsection (3) of this section and is based on the state share of sales tax.

(2) For purposes of this section and RCW 82.12.820:

(a) "Agricultural products" has the meaning given in RCW 82.04.213;

(b) "Cold storage warehouse" has the meaning provided in RCW 82.74.010;

(c) "Construction" means the actual construction of a warehouse or grain elevator that did not exist before the construction began. "Construction" includes expansion, but in the case of a cold storage warehouse, only if the expansion adds at least twenty-five thousand square feet of additional space to an existing cold storage warehouse, or in the case of a warehouse other than a cold storage warehouse, only if the expansion adds at least two hundred thousand square feet of additional space to an existing warehouse other than a cold storage warehouse~~(, or additional storage capacity of at least one million bushels to an existing grain elevator)~~. "Construction" does not include renovation, remodeling, or repair;

(d) "Department" means the department of revenue;

(e) "Distribution center" means a warehouse that is used exclusively by a retailer solely for the storage and distribution of finished goods to retail outlets of the retailer. "Distribution center" does not include a warehouse at which retail sales occur;

(f) "Finished goods" means tangible personal property intended for sale by a retailer or wholesaler. "Finished goods" does not include agricultural products stored by wholesalers, third-party warehouses, or retailers if the storage takes place on the land of the person who produced the agricultural product. "Finished goods" does not include logs, minerals, petroleum, gas, or other extracted products stored as raw materials or in bulk;

(g) "Grain elevator" means ~~(a structure used for storage and handling of grain in bulk)~~ storage silos, tanks, conveyers and their supports, scale towers, bins, electrical improvements, scales, foundations, rails and rail beds, and other buildings primarily used to handle, store, organize, condition, analyze, or convey grain, oil seeds, and byproducts thereof in bulk. Office space, lunchrooms, restrooms, maintenance buildings, control and computer systems used to operate such facilities, and other space necessary for the operation of the grain elevator are considered part of the grain elevator as are loading docks and other such space or structures attached or adjacent to the conveyers, and other necessary devices and structures used to receive, convey, or discharge grain, oil seeds, and byproducts thereof via means of waterborne, rail, highway, or intermodal transport and used for handling of grain, oil seeds, and byproducts thereof. Roads, landscaping, and parking lots are not considered part of the grain elevator. A storage yard is not a grain elevator nor is a structure in which manufacturing takes place;

(h) "Grain exporting facility" means one or more contiguous parcels of real property with one or more grain elevators;

(i) "Grain elevator equipment" means equipment within a grain elevator facility that is primarily used to handle, store, organize, convey, condition, or analyze grain, oil seeds, and byproducts thereof which is not defined as a grain elevator. The term includes tangible personal property with a useful life of one year or more that becomes an ingredient or component of the equipment, including repair and replacement parts. The term does not include equipment in offices, lunchrooms, restrooms, and other like space, within a grain elevator facility, or equipment used for nongrain elevator purposes. "Grain elevator equipment" includes but is not limited to: Samplers, air compressors, quality analyzing equipment, worker and environmental safety equipment, conditioning equipment used to maintain quality, lifts, positioners, cranes, hoists, mechanical arms, and robots; and forklifts and other off-the-road vehicles that are used to lift or move tangible personal property and that cannot be operated legally on roads and streets;

(j) "Material-handling equipment and racking equipment" means equipment in a warehouse or grain elevator that is primarily used to handle, store, organize, convey, package, or

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repackage finished goods. The term includes tangible personal property with a useful life of one year or more that becomes an ingredient or component of the equipment, including repair and replacement parts. The term does not include equipment in offices, lunchrooms, restrooms, and other like space, within a warehouse or grain elevator, or equipment used for nonwarehousing purposes. "Material-handling equipment" includes but is not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-place units, cranes, hoists, mechanical arms, and robots; mechanized systems, including containers that are an integral part of the system, whose purpose is to lift or move tangible personal property; and automated handling, storage, and retrieval systems, including computers that control them, whose purpose is to lift or move tangible personal property; and forklifts and other off-the-road vehicles that are used to lift or move tangible personal property and that cannot be operated legally on roads and streets. "Racking equipment" includes, but is not limited to, conveying systems, chutes, shelves, racks, bins, drawers, pallets, and other containers and storage devices that form a necessary part of the storage system;

((f)) (k) "Person" has the meaning given in RCW 82.04.030;

((f)) (l) "Retailer" means a person who makes "sales at retail" as defined in chapter 82.04 RCW of tangible personal property;

((f)) (m) "Square footage" means the product of the two horizontal dimensions of each floor of a specific warehouse. The entire footprint of the warehouse shall be measured in calculating the square footage, including space that juts out from the building profile such as loading docks. "Square footage" does not mean the aggregate of the square footage of more than one warehouse at a location or the aggregate of the square footage of warehouses at more than one location;

((f)) (n) "Third-party warehouse" means a person taxable under RCW 82.04.280(4);

((f)) (o) "Warehouse" means an enclosed building or structure in which finished goods are stored. A warehouse building or structure may have more than one storage room and more than one floor. Office space, lunchrooms, restrooms, and other space within the warehouse and necessary for the operation of the warehouse are considered part of the warehouse as are loading docks and other such space attached to the building and used for handling of finished goods. Landscaping and parking lots are not considered part of the warehouse. A storage yard is not a warehouse, nor is a building in which manufacturing takes place; and

((f)) (p) "Wholesaler" means a person who makes "sales at wholesale" as defined in chapter 82.04 RCW of tangible personal property, but "wholesaler" does not include a person who makes sales exempt under RCW 82.04.330.

(3)(a) A person claiming an exemption from state tax in the form of a remittance under this section must pay the tax imposed by RCW 82.08.020. The buyer may then apply to the department for remittance of all or part of the tax paid under RCW 82.08.020. For grain elevators with combined bushel capacity of one million ~~((but less than two million))~~ or more and for grain elevators required to be issued a license by the department of agriculture under chapter 22.09 RCW or required to be licensed by the federal government for purposes similar to those of licensure under chapter 22.09 RCW but with bushel capacity of less than one million the remittance is equal to ~~((fifty))~~ one hundred percent of the amount of tax paid for qualifying construction, remodeling, repairing, cleaning, altering, or improving, and materials, service, and labor relating to a grain elevator, and fifty percent of the amount of tax paid for qualifying grain elevator equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment. For warehouses with square footage of two hundred thousand or more, other than cold storage warehouses, ~~((and for grain elevators with bushel capacity of two million))~~ the remittance is equal to one hundred percent of

the amount of tax paid for qualifying construction, materials, service, and labor, and fifty percent of the amount of tax paid for qualifying material-handling equipment and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment. For cold storage warehouses with square footage of twenty-five thousand or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, materials, service, and labor, and ~~((fifty))~~ one hundred percent of the amount of tax paid for qualifying material-handling equipment and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment. ~~((For cold storage warehouses with square footage of twenty-five thousand or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, materials, service, and labor, and one hundred percent of the amount of tax paid for qualifying material-handling equipment and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment.))~~

(b) The department shall determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer shall on a quarterly basis submit an information sheet, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer shall retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the material-handling equipment and racking equipment or grain elevator equipment; location and size of warehouses and grain elevators; and construction invoices and documents.

(c) The department shall on a quarterly basis remit exempted amounts to qualifying persons who submitted applications during the previous quarter.

(4) Warehouses, grain elevators, ~~((and))~~ material-handling equipment and racking equipment, and grain elevator equipment for which an exemption, credit, or deferral has been or is being received under chapter 82.60, 82.62, or 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance under this section. Warehouses ~~((and grain elevators))~~ upon which construction was initiated before May 20, 1997, are not eligible for a remittance under this section.

(5) The lessor or owner of a warehouse or grain elevator is not eligible for a remittance under this section unless the underlying ownership of the warehouse or grain elevator and the material-handling equipment and racking equipment or grain elevator equipment vests exclusively in the same person, or unless the lessor by written contract agrees to pass the economic benefit of the remittance to the lessee in the form of reduced rent payments.

**Sec. 3.** RCW 82.08.820 and 2006 c 354 s 12 are each amended to read as follows:

(1) Wholesalers or third-party warehouse owners who own or operate warehouses or grain elevators and retailers who own or operate distribution centers, and who have paid the tax levied by RCW 82.08.020 on:

(a) Material-handling and racking equipment or grain elevator equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving ~~((the))~~ all such equipment; or

(b) Construction of a warehouse, or construction, remodeling, repairing, cleaning, altering, or improving of a grain elevator, including materials, and including service and labor costs, are eligible for an exemption in the form of a remittance. The amount of the remittance is computed under subsection (3) of this section and is based on the state share of sales tax.

(2) For purposes of this section and RCW 82.12.820:

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(a) "Agricultural products" has the meaning given in RCW 82.04.213;

(b) "Construction" means the actual construction of a warehouse or grain elevator that did not exist before the construction began. "Construction" includes expansion, but in the case of a warehouse, only if the expansion adds at least two hundred thousand square feet of additional space to an existing warehouse ((or additional storage capacity of at least one million bushels to an existing grain elevator)). "Construction" does not include renovation, remodeling, or repair;

(c) "Department" means the department of revenue;

(d) "Distribution center" means a warehouse that is used exclusively by a retailer solely for the storage and distribution of finished goods to retail outlets of the retailer. "Distribution center" does not include a warehouse at which retail sales occur;

(e) "Finished goods" means tangible personal property intended for sale by a retailer or wholesaler. "Finished goods" does not include agricultural products stored by wholesalers, third-party warehouses, or retailers if the storage takes place on the land of the person who produced the agricultural product. "Finished goods" does not include logs, minerals, petroleum, gas, or other extracted products stored as raw materials or in bulk;

(f) "Grain elevator" means ((a structure used for storage and handling of grain in bulk)) silos, tanks, conveyers and their supports, scale towers, bins, electrical improvements, scales, foundations, rails and rail beds, and other buildings primarily used to handle, store, organize, condition, analyze, or convey grain, oil seeds, and byproducts thereof in bulk. Office space, lunchrooms, restrooms, maintenance buildings, control and computer systems used to operate such facilities, and other space necessary for the operation of the grain elevator are considered part of the grain elevator as are loading docks and other such space or structures attached or adjacent to the conveyers, and other necessary devices and structures used to receive, convey, or discharge grain, oil seeds, and byproducts thereof via means of waterborne, rail, highway, or intermodal transport and used for handling of grain, oil seeds, and byproducts thereof. Roads, landscaping, and parking lots are not considered part of the grain elevator. A storage yard is not a grain elevator nor is a structure in which manufacturing takes place;

(g) "Grain elevator facility" means one or more contiguous parcels of real property with one or more grain elevators;

(h) "Grain elevator equipment" means equipment within a grain elevator facility that is primarily used to handle, store, organize, convey, condition, or analyze grain, oil seeds, and byproducts thereof which is not defined as a grain elevator. The term includes tangible personal property with a useful life of one year or more that becomes an ingredient or component of the equipment, including repair and replacement parts. The term does not include equipment in offices, lunchrooms, restrooms, and other like space, within a grain elevator facility, or equipment used for nongrain elevator purposes. "Grain elevator equipment" includes but is not limited to: Samplers, air compressors, quality analyzing equipment, worker and environmental safety equipment, conditioning equipment used to maintain quality, lifts, positioners, cranes, hoists, mechanical arms, and robots; and forklifts and other off-the-road vehicles that are used to lift or move tangible personal property and that cannot be operated legally on roads and streets;

(i) "Material-handling equipment and racking equipment" means equipment in a warehouse or grain elevator that is primarily used to handle, store, organize, convey, package, or repackage finished goods. The term includes tangible personal property with a useful life of one year or more that becomes an ingredient or component of the equipment, including repair and replacement parts. The term does not include equipment in offices, lunchrooms, restrooms, and other like space, within a warehouse or grain elevator, or equipment used for nonwarehousing purposes. "Material-handling equipment" includes but is not limited to: Conveyers, carousels, lifts,

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positioners, pick-up-and-place units, cranes, hoists, mechanical arms, and robots; mechanized systems, including containers that are an integral part of the system, whose purpose is to lift or move tangible personal property; and automated handling, storage, and retrieval systems, including computers that control them, whose purpose is to lift or move tangible personal property; and forklifts and other off-the-road vehicles that are used to lift or move tangible personal property and that cannot be operated legally on roads and streets. "Racking equipment" includes, but is not limited to, conveying systems, chutes, shelves, racks, bins, drawers, pallets, and other containers and storage devices that form a necessary part of the storage system;

~~((h))~~ (i) "Person" has the meaning given in RCW 82.04.030;

~~((h))~~ (k) "Retailer" means a person who makes "sales at retail" as defined in chapter 82.04 RCW of tangible personal property;

~~((f))~~ (l) "Square footage" means the product of the two horizontal dimensions of each floor of a specific warehouse. The entire footprint of the warehouse shall be measured in calculating the square footage, including space that juts out from the building profile such as loading docks. "Square footage" does not mean the aggregate of the square footage of more than one warehouse at a location or the aggregate of the square footage of warehouses at more than one location;

~~((k))~~ (m) "Third-party warehouse" means a person taxable under RCW 82.04.280(4);

~~((h))~~ (n) "Warehouse" means an enclosed building or structure in which finished goods are stored. A warehouse building or structure may have more than one storage room and more than one floor. Office space, lunchrooms, restrooms, and other space within the warehouse and necessary for the operation of the warehouse are considered part of the warehouse as are loading docks and other such space attached to the building and used for handling of finished goods. Landscaping and parking lots are not considered part of the warehouse. A storage yard is not a warehouse, nor is a building in which manufacturing takes place; and

~~((m))~~ (o) "Wholesaler" means a person who makes "sales at wholesale" as defined in chapter 82.04 RCW of tangible personal property, but "wholesaler" does not include a person who makes sales exempt under RCW 82.04.330.

(3)(a) A person claiming an exemption from state tax in the form of a remittance under this section must pay the tax imposed by RCW 82.08.020. The buyer may then apply to the department for remittance of all or part of the tax paid under RCW 82.08.020. For grain elevators with combined bushel capacity of one million ~~((but less than two million))~~ or more and for grain elevators required to be issued a license by the department of agriculture under chapter 22.09 RCW or required to be licensed by the federal government for purposes similar to those of licensure under chapter 22.09 RCW but with bushel capacity of less than one million the remittance is equal to ~~((fifty))~~ one hundred percent of the amount of tax paid for qualifying construction, remodeling, repairing, cleaning, altering, or improving, and materials, service, and labor relating to a grain elevator, and fifty percent of the amount of tax paid for qualifying grain elevator equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment. For warehouses with square footage of two hundred thousand or more ~~((and for grain elevators with bushel capacity of two million or more))~~, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, materials, service, and labor, and fifty percent of the amount of tax paid for qualifying material-handling equipment and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment.

(b) The department shall determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer shall on a

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quarterly basis submit an information sheet, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer shall retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the material-handling equipment and racking equipment or grain elevator equipment; location and size of warehouses and grain elevators; and construction invoices and documents.

(c) The department shall on a quarterly basis remit exempted amounts to qualifying persons who submitted applications during the previous quarter.

(4) Warehouses, grain elevators, ~~((and))~~ material-handling equipment and racking equipment, and grain elevator equipment for which an exemption, credit, or deferral has been or is being received under chapter 82.60, 82.62, or 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance under this section. Warehouses ~~((and grain elevators))~~ upon which construction was initiated before May 20, 1997, are not eligible for a remittance under this section.

(5) The lessor or owner of a warehouse or grain elevator is not eligible for a remittance under this section unless the underlying ownership of the warehouse or grain elevator and the material-handling equipment and racking equipment or grain elevator equipment vests exclusively in the same person, or unless the lessor by written contract agrees to pass the economic benefit of the remittance to the lessee in the form of reduced rent payments.

**Sec. 4.** RCW 82.12.820 and 2005 c 513 s 12 are each amended to read as follows:

(1) Wholesalers or third-party warehouse owners who own or operate warehouses ~~((or)),~~ grain elevators, or large grain elevator facilities, and retailers who own or operate distribution centers, and who have paid the tax levied under RCW 82.12.020 on:

(a) Material-handling equipment and racking equipment or large grain elevator equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving ~~((the))~~ all such equipment; or

(b) Materials incorporated in the construction of a warehouse ~~((or)),~~ grain elevator, or construction, remodeling, repairing, cleaning, altering, or improving of a large grain elevator are eligible for an exemption on tax paid in the form of a remittance or credit against tax owed. The amount of the remittance or credit is computed under subsection (2) of this section and is based on the state share of use tax.

(2)(a) A person claiming an exemption from state tax in the form of a remittance under this section must pay the tax imposed by RCW 82.12.020 to the department. The person may then apply to the department for remittance of all or part of the tax paid under RCW 82.12.020. For grain elevators with bushel capacity of one million but less than two million, the remittance is equal to fifty percent of the amount of tax paid. For warehouses with square footage of two hundred thousand or more, other than cold storage warehouses, and for grain elevators with bushel capacity of two million or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction materials, and fifty percent of the amount of tax paid for qualifying material-handling equipment and racking equipment. For cold storage warehouses with square footage of twenty-five thousand or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, materials, service, and labor, and one hundred percent of the amount of tax paid for qualifying material-handling equipment and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment. For large grain elevator facilities the remittance is equal to one hundred percent of the amount of tax paid for materials for

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qualifying construction, remodeling, repairing, cleaning, altering, or improving, and fifty percent of the amount of tax paid for qualifying large grain elevator equipment.

(b) The department shall determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer shall on a quarterly basis submit an information sheet, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer shall retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the material-handling equipment and racking equipment or large grain elevator equipment; location and size of warehouses, ~~((if applicable))~~ grain elevators, and large grain elevator facilities; and construction invoices and documents.

(c) The department shall on a quarterly basis remit or credit exempted amounts to qualifying persons who submitted applications during the previous quarter.

(3) Warehouses, grain elevators, ~~((and))~~ large grain elevators, large grain elevator equipment, and material-handling equipment and racking equipment, for which an exemption, credit, or deferral has been or is being received under chapter 82.60, ~~((82-61,))~~ 82.62, or 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance under this section. Materials incorporated in warehouses ~~((and))~~ grain elevators, and large grain elevators upon which construction was initiated prior to May 20, 1997, are not eligible for a remittance under this section.

(4) The lessor or owner of ~~((the))~~ a warehouse ~~((or))~~ grain elevator, or large grain elevator is not eligible for a remittance or credit under this section unless the underlying ownership of the warehouse ~~((or))~~ grain elevator, or large grain elevator and the material-handling equipment and racking equipment or large grain elevator equipment vests exclusively in the same person, or unless the lessor by written contract agrees to pass the economic benefit of the ~~((exemption))~~ remittance to the lessee in the form of reduced rent payments.

(5) The definitions in RCW 82.08.820 apply to this section.

**Sec. 5.** RCW 82.12.820 and 2005 c 513 s 12 are each amended to read as follows:

(1) Wholesalers or third-party warehouse owners who own or operate warehouses or grain elevators ~~((and))~~ and retailers who own or operate distribution centers, and who have paid the tax levied under RCW 82.12.020 on:

(a) Material-handling equipment and racking equipment or grain elevator equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving ~~((the))~~ all such equipment; or

(b) Materials incorporated in the construction of a warehouse or construction, remodeling, repairing, cleaning, altering, or improving of a grain elevator are eligible for an exemption on tax paid in the form of a remittance or credit against tax owed. The amount of the remittance or credit is computed under subsection (2) of this section and is based on the state share of use tax.

(2)(a) A person claiming an exemption from state tax in the form of a remittance under this section must pay the tax imposed by RCW 82.12.020 to the department. The person may then apply to the department for remittance of all or part of the tax paid under RCW 82.12.020. For grain elevators with combined bushel capacity of one million ~~((but less than two million))~~ or more and for grain elevators required to be issued a license by the department of agriculture under chapter 22.09 RCW or required to be licensed by the federal government for purposes similar to those of licensure under chapter 22.09 RCW but with bushel capacity of less than one million, the remittance is equal to ~~((fifty))~~ one hundred percent of the amount of tax paid for materials for qualifying construction, remodeling, repairing,



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cleaning, altering, or improving of a grain elevator, and fifty percent of the amount of tax paid for qualifying grain elevator equipment. For warehouses with square footage of two hundred thousand or more, other than cold storage warehouses, ~~((and for grain elevators with bushel capacity of two million or more,))~~ the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction materials, and fifty percent of the amount of tax paid for qualifying material-handling equipment and racking equipment. For cold storage warehouses with square footage of twenty-five thousand or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, materials, service, and labor, and one hundred percent of the amount of tax paid for qualifying material-handling equipment and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment.

(b) The department shall determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer shall on a quarterly basis submit an information sheet, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer shall retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the material-handling equipment and racking equipment or grain elevator equipment; location and size of warehouses, ~~((if applicable))~~ grain elevators, and grain elevator facilities; and construction invoices and documents.

(c) The department shall on a quarterly basis remit or credit exempted amounts to qualifying persons who submitted applications during the previous quarter.

(3) Warehouses, grain elevators, ~~((and))~~ grain elevator equipment, and material-handling equipment and racking equipment, for which an exemption, credit, or deferral has been or is being received under chapter 82.60, ~~((82.61,))~~ 82.62, or 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance under this section. Materials incorporated in warehouses ~~((and grain elevators))~~ upon which construction was initiated prior to May 20, 1997, are not eligible for a remittance under this section.

(4) The lessor or owner of ~~((the))~~ a warehouse or grain elevator is not eligible for a remittance or credit under this section unless the underlying ownership of the warehouse or grain elevator and the material-handling equipment and racking equipment or grain elevator equipment vests exclusively in the same person, or unless the lessor by written contract agrees to pass the economic benefit of the ~~((exemption))~~ remittance to the lessee in the form of reduced rent payments.

(5) The definitions in RCW 82.08.820 apply to this section.

**Sec. 6.** RCW 82.12.820 and 2006 c 354 s 13 are each amended to read as follows:

(1) Wholesalers or third-party warehouse owners who own or operate warehouses or grain elevators ~~((;))~~ and retailers who own or operate distribution centers, and who have paid the tax levied under RCW 82.12.020 on:

(a) Material-handling equipment and racking equipment or grain elevator equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving ~~((the))~~ all such equipment; or

(b) Materials incorporated in the construction of a warehouse or construction, remodeling, repairing, cleaning, altering, or improving of a grain elevator ~~((;))~~ are eligible for an exemption on tax paid in the form of a remittance or credit against tax owed. The amount of the remittance or credit is computed under subsection (2) of this section and is based on the state share of use tax.

(2)(a) A person claiming an exemption from state tax in the form of a remittance under this section must pay the tax imposed by RCW 82.12.020 to the department. The person may then

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apply to the department for remittance of all or part of the tax paid under RCW 82.12.020. For grain elevators with bushel capacity of one million ~~((but less than two million, the remittance is equal to fifty percent of the amount of tax paid))~~ or more and for grain elevators required to be issued a license by the department of agriculture under chapter 22.09 RCW or required to be licensed by the federal government for purposes similar to those of licensure under chapter 22.09 RCW but with bushel capacity of less than one million, the remittance is equal to one hundred percent of the tax paid for materials for qualifying construction, remodeling, repairing, cleaning, altering, or improving of a grain elevator, and fifty percent of the amount of tax paid for qualifying grain elevator equipment. For warehouses with square footage of two hundred thousand or more ~~((and for grain elevators with bushel capacity of two million or more,))~~ the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction materials, and fifty percent of the amount of tax paid for qualifying material-handling equipment and racking equipment.

(b) The department shall determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer shall on a quarterly basis submit an information sheet, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer shall retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the material-handling equipment and racking equipment or grain elevator equipment; location and size of warehouses ~~((if applicable))~~ and grain elevators; and construction invoices and documents.

(c) The department shall on a quarterly basis remit or credit exempted amounts to qualifying persons who submitted applications during the previous quarter.

(3) Warehouses, grain elevators, ~~((and))~~ grain elevator equipment, and material-handling equipment and racking equipment, for which an exemption, credit, or deferral has been or is being received under chapter 82.60, 82.62, or 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance under this section. Materials incorporated in warehouses ~~((and grain elevators))~~ upon which construction was initiated prior to May 20, 1997, are not eligible for a remittance under this section.

(4) The lessor or owner of ~~((the))~~ a warehouse or grain elevator is not eligible for a remittance or credit under this section unless the underlying ownership of the warehouse or grain elevator and material-handling equipment and racking equipment or grain elevator equipment vests exclusively in the same person, or unless the lessor by written contract agrees to pass the economic benefit of the ~~((exemption))~~ remittance to the lessee in the form of reduced rent payments.

(5) The definitions in RCW 82.08.820 apply to this section.

**NEW SECTION. Sec. 7.** Sections 1 and 4 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2007.

**NEW SECTION. Sec. 8.** Sections 2 and 5 of this act take effect January 1, 2009.

**NEW SECTION. Sec. 9.** Sections 3 and 6 of this act take effect July 1, 2012.

**NEW SECTION. Sec. 10.** Sections 1 and 4 of this act expire January 1, 2009.

**NEW SECTION. Sec. 11.** Sections 2 and 5 of this act expire July 1, 2012."

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

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The President declared the question before the Senate to be the adoption of the striking amendment by Senator Schoesler and others to Substitute Senate Bill No. 5805.

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

#### MOTION

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

On page 1, line 1 of the title, after "elevators;" strike the remainder of the title and insert "amending RCW 82.08.820, 82.08.820, 82.08.820, 82.12.820, 82.12.820, and 82.12.820; providing effective dates; providing expiration dates; and declaring an emergency."

#### MOTION

On motion of Senator Rasmussen, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5805 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hatfield spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5805.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5805 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 4; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Marr, McAuliffe, McCaslin, Murray, Oemig, Parlette, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Weinstein and Zarelli - 41

Voting nay: Senators Fairley, Kohl-Welles, Pridemore and Spanel - 4

Excused: Senators Morton, Pflug, Shin and Tom - 4

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5805, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1981, by House Committee on Finance (originally sponsored by Representatives Hunter, Conway, Orcutt, Anderson, Santos, Kessler, Jarrett, Condotta and McIntire)

Concerning the excise taxation of electronically delivered financial information.

The measure was read the second time.

#### MOTION

On motion of Senator Prentice, the rules were suspended, Engrossed Substitute House Bill No. 1981 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

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The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1981.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1981 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 5; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Franklin, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Marr, McAuliffe, McCaslin, Murray, Oemig, Parlette, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Spanel, Stevens, Swecker, Weinstein and Zarelli - 40

Voting nay: Senators Fairley, Fraser, Kline, Kohl-Welles and Pridemore - 5

Excused: Senators Morton, Pflug, Shin and Tom - 4

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1981, 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. 1449, by Representatives Condotta, Armstrong, Curtis, Orcutt and Dunn

Regarding nondisclosure of certain information of gambling commission licensees.

The measure was read the second time.

#### MOTION

Senator Delvin moved that the following striking amendment by Senators Delvin and Kohl-Welles be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 42.56.270 and 2006 c 369 s 2, 2006 c 341 s 6, 2006 c 338 s 5, 2006 c 302 s 12, 2006 c 209 s 7, 2006 c 183 s 37, and 2006 c 171 s 8 are each reenacted and amended to read as follows:

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;

(3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 15.110, 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;

(5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating

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or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;

(6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;

(7) Financial and valuable trade information under RCW 51.36.120;

(8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;

(9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;

(10)(a) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a horse racing license submitted pursuant to RCW 67.16.260(1)(b), liquor license, gambling license, or lottery retail license;

(b) Independent auditors' reports and financial statements of house-banked social card game licensees required by the gambling commission pursuant to rules adopted under chapter 9.46 RCW;

(c) Financial or proprietary information supplied to the liquor control board including the amount of beer or wine sold by a domestic winery, brewery, microbrewery, or certificate of approval holder under RCW 66.24.206(1) or 66.24.270(2)(a) and including the amount of beer or wine purchased by a retail licensee in connection with a retail licensee's obligation under RCW 66.24.210 or 66.24.290, for receipt of shipments of beer or wine(ç);

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;

(12)(a) When supplied to and in the records of the department of community, trade, and economic development:

(i) Financial and proprietary information collected from any person and provided to the department of community, trade, and economic development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

(ii) Financial or proprietary information collected from any person and provided to the department of community, trade, and economic development or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;

(b) When developed by the department of community, trade, and economic development based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of sixty days to the department of community, trade, and economic development from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter;

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70.95N RCW to implement chapter 70.95N RCW;

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under chapter 43.350 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

(15) Financial and commercial information provided as evidence to the department of licensing as required by RCW 19.112.110 or 19.112.120, except information disclosed in aggregate form that does not permit the identification of information related to individual fuel licensees;

(16) Any production records, mineral assessments, and trade secrets submitted by a permit holder, mine operator, or landowner to the department of natural resources under RCW 78.44.085; and

(17)(a) Farm plans developed by conservation districts, unless permission to release the farm plan is granted by the landowner or operator who requested the plan, or the farm plan is used for the application or issuance of a permit.

(b) Farm plans developed under chapter 90.48 RCW and not under the federal clean water act, 33 U.S.C. Sec. 1251 are subject to RCW 42.56.610 and 90.64.190.

**Sec. 2.** RCW 42.56.270 and 2006 c 369 s 2, 2006 c 341 s 6, 2006 c 338 s 5, 2006 c 209 s 7, 2006 c 183 s 37, and 2006 c 171 s 8 are each reenacted and amended to read as follows:

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;

(3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 15.110, 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;

(5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;

(6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;

(7) Financial and valuable trade information under RCW 51.36.120;

(8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;

(9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;

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(10)(a) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a horse racing license submitted pursuant to RCW 67.16.260(1)(b), liquor license, gambling license, or lottery retail license;

(b) Independent auditors' reports and financial statements of house-banked social card game licensees required by the gambling commission pursuant to rules adopted under chapter 9.46 RCW;

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;

(12)(a) When supplied to and in the records of the department of community, trade, and economic development:

(i) Financial and proprietary information collected from any person and provided to the department of community, trade, and economic development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

(ii) Financial or proprietary information collected from any person and provided to the department of community, trade, and economic development or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;

(b) When developed by the department of community, trade, and economic development based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of sixty days to the department of community, trade, and economic development from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter;

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70.95N RCW to implement chapter 70.95N RCW;

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under chapter 43.350 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

(15) Financial and commercial information provided as evidence to the department of licensing as required by RCW 19.112.110 or 19.112.120, except information disclosed in aggregate form that does not permit the identification of information related to individual fuel licensees;

(16) Any production records, mineral assessments, and trade secrets submitted by a permit holder, mine operator, or landowner to the department of natural resources under RCW 78.44.085; and

(17)(a) Farm plans developed by conservation districts, unless permission to release the farm plan is granted by the landowner or operator who requested the plan, or the farm plan is used for the application or issuance of a permit.

(b) Farm plans developed under chapter 90.48 RCW and not under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to RCW 42.56.610 and 90.64.190.

NEW SECTION. **Sec. 3.** Section 1 of this act expires June 30, 2008.

NEW SECTION. **Sec. 4.** Section 2 of this act takes effect June 30, 2008."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Delvin and Kohl-Welles to House Bill No. 1449.

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

## MOTION

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

On page 1, line 2 of the title, after "commission;" strike the remainder of the title and insert "reenacting and amending RCW 42.56.270 and 42.56.270; providing an effective date; and providing an expiration date."

## MOTION

On motion of Senator Kohl-Welles, the rules were suspended, House Bill No. 1449 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 Delvin 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. 1449 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1449 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

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, Murray, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 46

Voting nay: Senator Oemig - 1

Excused: Senators Morton and Tom - 2

HOUSE BILL NO. 1449 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 1:57 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 3:17 p.m. by President Owen.

## MOTION

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

MESSAGE FROM THE HOUSE

April 6, 2007

MR. PRESIDENT:

The House has passed the following bills:  
 SUBSTITUTE SENATE BILL NO. 5032,  
 SENATE BILL NO. 5259,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5373,  
 SENATE BILL NO. 5778,  
 SENATE BILL NO. 6090,  
 SENATE BILL NO. 6129,  
 SUBSTITUTE SENATE BILL NO. 6141,  
 and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

April 6, 2007

MR. PRESIDENT:

The House has passed the following bills:  
 SENATE BILL NO. 5798,  
 SECOND SUBSTITUTE SENATE BILL NO. 5806,  
 SUBSTITUTE SENATE BILL NO. 5919,  
 and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:  
 SUBSTITUTE SENATE BILL NO. 5078,  
 SENATE BILL NO. 5086,  
 SUBSTITUTE SENATE BILL NO. 5087,  
 SUBSTITUTE SENATE BILL NO. 5118,  
 SECOND SUBSTITUTE SENATE BILL NO. 5122,  
 SENATE BILL NO. 5134,  
 SENATE BILL NO. 5175,  
 SUBSTITUTE SENATE BILL NO. 5190,  
 SENATE BILL NO. 5199,  
 ENGROSSED SENATE BILL NO. 5204,  
 SUBSTITUTE SENATE BILL NO. 5242,  
 SUBSTITUTE SENATE BILL NO. 5250,  
 SENATE BILL NO. 5273,  
 SENATE BILL NO. 5398,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5403,  
 SENATE BILL NO. 5421,  
 SUBSTITUTE SENATE BILL NO. 5554,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5717,

MOTION

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

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2275, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Kessler, B. Sullivan, Kenney, Chase and Hunt)

Regarding funding of state parks.

The measure was read the second time.

MOTION

Senator Jacobsen moved that the following committee striking amendment by the Committee on Natural Resources, Ocean & Recreation be adopted.

Strike everything after the enacting clause and insert the following:

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

(1) The department shall provide an opportunity for owners of vehicles registered under RCW 46.16.0621 and vehicles licensed under RCW 46.16.070 with a declared gross weight of ten thousand pounds or less, to make a voluntary donation of five dollars at the time of initial or renewal registration. The donation must be deposited in the state parks renewal and stewardship account established in RCW 79A.05.215 to be used for the operation and maintenance of state parks.

(2) This section applies to registrations due or to become due on or after January 1, 2008.

Sec. 2. RCW 79A.05.215 and 1995 c 211 s 7 are each amended to read as follows:

The state parks renewal and stewardship account is created in the state treasury. Except as otherwise provided in this chapter, all receipts from user fees, concessions, leases, donations collected under section 1 of this act, and other state park-based activities shall be deposited into the account. Expenditures from the account may be used for operating state parks, developing and renovating park facilities, undertaking deferred maintenance, enhancing park stewardship, and other state park purposes. Expenditures from the account may be made only after appropriation by the legislature.

NEW SECTION. Sec. 3. (1) The director of the department of general administration and the state parks and recreation commission shall jointly host a task force to study and develop recommendations as follows:

(a) Proposals concerning the best management structure for the capitol campus and all of the historical structures, office buildings, monuments, and parks that make up the campus. In determining the best management structure for the capitol campus, the task force must seek to provide the proper balance between managing for the best visitor services and maximum public enjoyment of the capitol campus against the need for maintaining the functionality of the working seat of state government and preservation of the historical structures and monuments on campus;

(b) Proposals to promote tourism at the Washington state capitol campus, including but not limited to: Concessionaire enhancements, audio-visual self-guided tour options, a central visitor center with souvenir/retail opportunities, transportation to and from capitol campus and parking enhancements, and clear and understandable way-finding guides;

(c) Proposals to enrich the educational experience including but not limited to both the present utilization and historical activities of the capitol campus as the seat of state government;

(d) Proposals to promote the unique architectural features, horticultural examples, and art collections of the capitol campus;

(e) Proposals to increase coordination and cooperation between agencies and entities involved in the management and care of the capitol campus and the local governments that are responsible for the buildings and areas near the campus; and

(f) Proposals to increase volunteer opportunities at the campus.

(2) The task force must include the following representatives:

(a) The governor or the governor's designee;

(b) The lieutenant governor or the lieutenant governor's designee;

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(c) Four legislative members to be appointed as follows: One member from each major caucus of the senate, appointed by the president of the senate; and one member from each major caucus of the house of representatives, appointed by the speaker of the house of representatives;

(d) A representative of the supreme court;

(e) The superintendent of public instruction or the superintendent's designee;

(f) The director of the department of community, trade, and economic development, or the director's designee;

(g) An elected official from the city of Olympia chosen by the legislative body of the city; and

(h) Two citizens of the state of Washington. One citizen must be appointed by the president of the senate and one citizen must be appointed by the speaker of the house of representatives. The citizens should have knowledge of the capitol campus, visitor services, and the historical heritage of the capitol.

(3) The task force shall submit the proposals to the appropriate policy and fiscal committees of the legislature by November 1, 2007.

(4) This section expires July 1, 2008."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Natural Resources, Ocean & Recreation to Substitute House Bill No. 2275.

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

#### MOTION

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

On page 1, line 1 of the title, after "parks;" strike the remainder of the title and insert "amending RCW 79A.05.215; adding a new section to chapter 46.16 RCW; creating a new section; and providing an expiration date."

#### MOTION

On motion of Senator Jacobsen, the rules were suspended, Substitute House Bill No. 2275 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

#### MOTION

On motion of Senator Brandland, Senator Hewitt was excused.

#### MOTION

On motion of Senator Regala, Senators Hatfield and Poulsen were excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2275 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2275 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, 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, Weinstein and Zarelli - 45

Excused: Senators Hatfield, Hewitt, Poulsen and Tom - 4

SUBSTITUTE HOUSE BILL NO. 2275 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1624, by House Committee on Early Learning & Children's Services (originally sponsored by Representatives Kagi, Walsh, Appleton, Roberts and Haigh)

Reinstating parental rights for adolescents who are in state care and have not been adopted and providing immunity for department of social and health services representatives.

The measure was read the second time.

#### MOTION

Senator Hargrove 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. A new section is added to chapter 13.34 RCW to read as follows:

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

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

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

(c) The child has not achieved his or her permanency plan within three years of a final order of termination, or if the final order was appealed, within three years of exhaustion of any right to appeal the order terminating parental rights.

(2) The child may file the petition prior to the expiration of this three-year period if the department or the supervising or custodial agency that is responsible for the custody or supervision of the child and the child stipulate that the child is not likely to achieve his or her permanency plan.

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

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

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

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

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

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

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

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

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

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

(9) The court shall grant the petition and dismiss the dependency only if the child and the parent or parents who were the subject of a petition under this section and whose parental rights were reinstated agree that the child will return to the legal custody of the parent or parents and the court finds that returning to the legal custody of the parent or parents is in the best interests of the child and will not present a risk to the child's health, welfare, or safety. The court shall order the department to provide services necessary to ensure the child's health, welfare, and safety, including a home study, as the child transitions back into the parent's legal custody.

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

(11) Any parent whose rights are reinstated under this section shall not be liable for any child support owed to the department pursuant to RCW 13.34.160 for the time period from the date of termination of parental rights to the date parental rights are reinstated.

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

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

**Sec. 2.** RCW 13.34.200 and 2003 c 227 s 7 are each amended to read as follows:

(1) Upon the termination of parental rights pursuant to RCW 13.34.180, all rights, powers, privileges, immunities, duties, and obligations, including any rights to custody, control, visitation, or support existing between the child and parent shall be severed and terminated and the parent shall have no standing to appear at any further legal proceedings concerning the child, except as provided in section 1 of this act: PROVIDED, That any support obligation existing prior to the effective date of the order terminating parental rights shall not be severed or terminated. The rights of one parent may be terminated without affecting the rights of the other parent and the order shall so state.

(2) An order terminating the parent and child relationship shall not disentitle a child to any benefit due the child from any third person, agency, state, or the United States, nor shall any action under this chapter be deemed to affect any rights and

benefits that an Indian child derives from the child's descent from a member of a federally recognized Indian tribe.

(3) An order terminating the parent-child relationship shall include a statement addressing the status of the child's sibling relationships and the nature and extent of sibling placement, contact, or visits.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.20A RCW to read as follows:

The state is not liable for civil damages resulting from any act or omission in the delivery of child welfare services or child protective services through the children's administration of the department of social and health services unless the act or omission constitutes gross negligence. This section does not create any duty and shall not be construed to create a duty where none exists.

**Sec. 4.** RCW 13.34.060 and 2002 c 52 s 4 are each amended to read as follows:

(1) A child taken into custody pursuant to RCW 13.34.050 or 26.44.050 shall be immediately placed in shelter care. A child taken by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070 shall be placed in shelter care only when permitted under RCW 13.34.055. No child may be held longer than seventy-two hours, excluding Saturdays, Sundays, and holidays, after such child is taken into custody unless a court order has been entered for continued shelter care. In no case may a child who is taken into custody pursuant to RCW 13.34.055, 13.34.050, or 26.44.050 be detained in a secure detention facility.

~~((a))~~ (2) Unless there is reasonable cause to believe that the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered, priority placement for a child in shelter care, pending a court hearing, shall be with any person described in RCW 74.15.020(2)(a). The person must be willing and available to care for the child and be able to meet any special needs of the child. The person must be willing to facilitate the child's visitation with siblings, if such visitation is part of the supervising agency's plan or is ordered by the court. If a child is not initially placed with a relative or other person requested by the parent pursuant to this section, the supervising agency shall make an effort within available resources to place the child with a relative or other person requested by the parent on the next business day after the child is taken into custody. The supervising agency shall document its effort to place the child with a relative or other person requested by the parent pursuant to this section. Nothing within this subsection ~~((a))~~ (2) establishes an entitlement to services or a right to a particular placement.

~~((b))~~ (3) Whenever a child is taken into custody pursuant to this section, the supervising agency may authorize evaluations of the child's physical or emotional condition, routine medical and dental examination and care, and all necessary emergency care. ~~((In no case may a child who is taken into custody pursuant to RCW 13.34.055, 13.34.050, or 26.44.050 be detained in a secure detention facility. No child may be held longer than seventy-two hours, excluding Saturdays, Sundays and holidays, after such child is taken into custody unless a court order has been entered for continued shelter care. The child and his or her parent, guardian, or custodian shall be informed that they have a right to a shelter care hearing. The court shall hold a shelter care hearing within seventy-two hours after the child is taken into custody, excluding Saturdays, Sundays, and holidays. If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, whether such waiver is knowing and voluntary.~~

~~(2) Whenever a child is taken into custody by child protective services pursuant to a court order issued under RCW 13.34.050 or when child protective services is notified that a child has been taken into custody pursuant to RCW 26.44.050 or 26.44.056, child protective services shall make reasonable~~

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~~efforts to inform the parents, guardian, or legal custodian of the fact that the child has been taken into custody, the reasons why the child was taken into custody, and their legal rights under this title as soon as possible and in no event shall notice be provided more than twenty-four hours after the child has been taken into custody or twenty-four hours after child protective services has been notified that the child has been taken into custody. The notice of custody and rights may be given by any means reasonably certain of notifying the parents including, but not limited to, written, telephone, or in person oral notification. If the initial notification is provided by a means other than writing, child protective services shall make reasonable efforts to also provide written notification.))~~

Sec. 5. RCW 13.34.062 and 2004 c 147 s 2 are each amended to read as follows:

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

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

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

(b) The written notice of custody and rights required by ((RCW 13.34.066)) this section shall be in substantially the following form:

"NOTICE

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

1. A court hearing will be held before a judge within 72 hours of the time your child is taken into custody excluding Saturdays, Sundays, and holidays. You should call the court at

(insert appropriate phone number here) for specific information about the date, time, and location of the court hearing.

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

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

4. If your hearing occurs before a court commissioner, you have the right to have the decision of the court commissioner reviewed by a superior court judge. To obtain that review, you must, within ten days after the entry of the decision of the court

commissioner, file with the court a motion for revision of the decision, as provided in RCW 2.24.050.

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

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

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

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

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

~~((2)) (3) If child protective services is not required to give notice under ((RCW 13.34.060(2) and subsection (1) of)) this section, the juvenile court counselor assigned to the matter shall make all reasonable efforts to advise the parents, guardian, or legal custodian of the time and place of any shelter care hearing, request that they be present, and inform them of their basic rights as provided in RCW 13.34.090.~~

~~((3)) (4) Reasonable efforts to advise and to give notice, as required in ((RCW 13.34.060(2) and subsections (1) and (2) of)) this section, shall include, at a minimum, investigation of the whereabouts of the parent, guardian, or legal custodian. If such reasonable efforts are not successful, or the parent, guardian, or legal custodian does not appear at the shelter care hearing, the petitioner shall testify at the hearing or state in a declaration:~~

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

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

~~((4) The court shall hear evidence regarding notice given to, and efforts to notify, the parent, guardian, or legal custodian and shall examine the need for shelter care. The court shall hear evidence regarding the efforts made to place the child with a relative. The court shall make an express finding as to whether the notice required under RCW 13.34.060(2) and subsections (1) and (2) of this section was given to the parent, guardian, or legal custodian. All parties have the right to present testimony to the court regarding the need or lack of need for shelter care. Hearsay evidence before the court regarding the need or lack of need for shelter care must be supported by sworn testimony, affidavit, or declaration of the person offering such evidence.~~

~~(5)(a) A shelter care order issued pursuant to RCW 13.34.065 shall include the requirement for a case conference as provided in RCW 13.34.067. However, if the parent is not present at the shelter care hearing, or does not agree to the case conference, the court shall not include the requirement for the case conference in the shelter care order.~~

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

~~(c) The court may order a conference or meeting as an alternative to the case conference required under RCW 13.34.067 so long as the conference or meeting ordered by the court meets all requirements under RCW 13.34.067, including~~



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the requirement of a written agreement specifying the services to be provided to the parent.

~~(6) A shelter care order issued pursuant to RCW 13.34.065 may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be placed in shelter care for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.~~

~~(7) Any parent, guardian, or legal custodian who for good cause is unable to attend the initial shelter care hearing may request that a subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. Upon the request of the parent, the court shall schedule the hearing within seventy-two hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means.)~~

Sec. 6. RCW 13.34.065 and 2001 c 332 s 3 are each amended to read as follows:

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

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

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

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

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

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

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

(b) The nature of the shelter care hearing and the proceedings that will follow; and

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

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

(a) Whether the notice required under RCW 13.34.062 was given to all known parents, guardians, or legal custodians of the child. The court shall make an express finding as to whether the notice required under RCW 13.34.062 was given to the parent, guardian, or legal custodian. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order the supervising agency or the department of social and health

services to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090;

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

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

(d) What services were provided to the family to prevent or eliminate the need for removal of the child from the child's home;

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

(f) Whether it is in the best interest of the child to remain enrolled in the school, developmental program, or child care the child was in prior to placement;

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

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

(i) Whether restraining orders, or orders expelling an allegedly abusive parent from the home, will allow the child to safely remain in the home;

(j) Whether any orders, agreed to by all parties, for examinations, evaluations, or immediate services are needed;

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

~~((2))~~ (5)(a) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

~~((1))~~ (i) After consideration of the specific services that have been provided, reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and

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

~~((iii))~~ (B) The release of such child would present a serious threat of substantial harm to such child; or

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

(b) If the court does not release the child to his or her parent, guardian, or legal custodian, and the child was initially placed with a relative pursuant to RCW 13.34.060(1), the court shall order continued placement with a relative, unless there is reasonable cause to believe the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered. The relative must be willing and available to:

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

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

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

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

(d) If a relative is not available, the court shall order continued shelter care or order placement with another suitable person, and the court shall set forth its reasons for the order. ~~((The court shall enter a finding as to whether RCW 13.34.060(2) and subsections (1) and (2) of this section have been complied with. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can~~

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be ascertained, the court shall order the supervising agency or the department of social and health services to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090.

~~(3))~~ If the court orders placement of the child with a person not related to the child and not licensed to provide foster care, the placement is subject to all terms and conditions of this section that apply to relative placements.

~~(e)~~ Any placement with a relative, or other person approved by the court pursuant to this section, shall be contingent upon cooperation with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order is grounds for removal of the child from the home of the relative or other person, subject to review by the court.

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

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

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

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

~~(b)(i)~~ An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

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

~~((4))~~ ~~(8)(a)~~ If a child is returned home from shelter care a second time in the case, or if the supervisor of the caseworker deems it necessary, the multidisciplinary team may be reconvened.

~~((5))~~ ~~(b)~~ If a child is returned home from shelter care a second time in the case a law enforcement officer must be present and file a report to the department.

Sec. 7. RCW 13.34.110 and 2001 c 332 s 7 are each amended to read as follows:

(1) The court shall hold a fact-finding hearing on the petition and, unless the court dismisses the petition, shall make written findings of fact, stating the reasons therefor. The rules of evidence shall apply at the fact-finding hearing and the parent, guardian, or legal custodian of the child shall have all of the rights provided in RCW 13.34.090(1). The petitioner shall have the burden of establishing by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030.

(2) The court in a fact-finding hearing may consider the history of past involvement of child protective services or law enforcement agencies with the family for the purpose of establishing a pattern of conduct, behavior, or inaction with

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regard to the health, safety, or welfare of the child on the part of the child's parent, guardian, or legal custodian, or for the purpose of establishing that reasonable efforts have been made by the department to prevent or eliminate the need for removal of the child from the child's home. No report of child abuse or neglect that has been destroyed or expunged under RCW 26.44.031 may be used for such purposes.

~~(3)(a)~~ The parent, guardian, or legal custodian of the child may waive his or her right to a fact-finding hearing by stipulating or agreeing to the entry of an order of dependency establishing that the child is dependent within the meaning of RCW 13.34.030. The parent, guardian, or legal custodian may also stipulate or agree to an order of disposition pursuant to RCW 13.34.130 at the same time. Any stipulated or agreed order of dependency or disposition must be signed by the parent, guardian, or legal custodian and his or her attorney, unless the parent, guardian, or legal custodian has waived his or her right to an attorney in open court, and by the petitioner and the attorney, guardian ad litem, or court-appointed special advocate for the child, if any. If the department of social and health services is not the petitioner and is required by the order to supervise the placement of the child or provide services to any party, the department must also agree to and sign the order.

~~(b)~~ Entry of any stipulated or agreed order of dependency or disposition is subject to approval by the court. The court shall receive and review a social study before entering a stipulated or agreed order and shall consider whether the order is consistent with the allegations of the dependency petition and the problems that necessitated the child's placement in out-of-home care. No social file or social study may be considered by the court in connection with the fact-finding hearing or prior to factual determination, except as otherwise admissible under the rules of evidence.

~~(c)~~ Prior to the entry of any stipulated or agreed order of dependency, the parent, guardian, or legal custodian of the child and his or her attorney must appear before the court and the court within available resources must inquire and establish on the record that:

~~(i)~~ The parent, guardian, or legal custodian understands the terms of the order or orders he or she has signed, including his or her responsibility to participate in remedial services as provided in any disposition order;

~~(ii)~~ The parent, guardian, or legal custodian understands that entry of the order starts a process that could result in the filing of a petition to terminate his or her relationship with the child within the time frames required by state and federal law if he or she fails to comply with the terms of the dependency or disposition orders or fails to substantially remedy the problems that necessitated the child's placement in out-of-home care;

~~(iii)~~ The parent, guardian, or legal custodian understands that the entry of the stipulated or agreed order of dependency is an admission that the child is dependent within the meaning of RCW 13.34.030 and shall have the same legal effect as a finding by the court that the child is dependent by at least a preponderance of the evidence, and that the parent, guardian, or legal custodian shall not have the right in any subsequent proceeding for termination of parental rights or dependency guardianship pursuant to this chapter or nonparental custody pursuant to chapter 26.10 RCW to challenge or dispute the fact that the child was found to be dependent; and

~~(iv)~~ The parent, guardian, or legal custodian knowingly and willingly stipulated and agreed to and signed the order or orders, without duress, and without misrepresentation or fraud by any other party.

If a parent, guardian, or legal custodian fails to appear before the court after stipulating or agreeing to entry of an order of dependency, the court may enter the order upon a finding that the parent, guardian, or legal custodian had actual notice of the right to appear before the court and chose not to do so. The court may require other parties to the order, including the attorney for the parent, guardian, or legal custodian, to appear

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and advise the court of the parent's, guardian's, or legal custodian's notice of the right to appear and understanding of the factors specified in this subsection. A parent, guardian, or legal custodian may choose to waive his or her presence at the in-court hearing for entry of the stipulated or agreed order of dependency by submitting to the court through counsel a completed stipulated or agreed dependency fact-finding/disposition statement in a form determined by the Washington state supreme court pursuant to General Rule GR 9.

~~((3))~~ (4) Immediately after the entry of the findings of fact, the court shall hold a disposition hearing, unless there is good cause for continuing the matter for up to fourteen days. If good cause is shown, the case may be continued for longer than fourteen days. Notice of the time and place of the continued hearing may be given in open court. If notice in open court is not given to a party, that party shall be notified by certified mail of the time and place of any continued hearing. Unless there is reasonable cause to believe the health, safety, or welfare of the child would be jeopardized or efforts to reunite the parent and child would be hindered, the court shall direct the department to notify those adult persons who: (a) Are related by blood or marriage to the child in the following degrees: Parent, grandparent, brother, sister, stepparent, stepbrother, stepsister, uncle, or aunt; (b) are known to the department as having been in contact with the family or child within the past twelve months; and (c) would be an appropriate placement for the child. Reasonable cause to dispense with notification to a parent under this section must be proved by clear, cogent, and convincing evidence.

The parties need not appear at the fact-finding or dispositional hearing if the parties, their attorneys, the guardian ad litem, and court-appointed special advocates, if any, are all in agreement.

**Sec. 8.** RCW 13.34.136 and 2004 c 146 s 1 are each amended to read as follows:

(1) Whenever a child is ordered removed from the child's home, a permanency plan shall be developed no later than sixty days from the time the supervising agency assumes responsibility for providing services, including placing the child, or at the time of a hearing under RCW 13.34.130, whichever occurs first. The permanency planning process continues until a permanency planning goal is achieved or dependency is dismissed. The planning process shall include reasonable efforts to return the child to the parent's home.

~~(2) The agency (charged with his or her care shall provide the court with) supervising the dependency shall submit a written permanency plan to all parties and the court not less than fourteen days prior to the scheduled hearing. Responsive reports of parties not in agreement with the supervising agency's proposed permanency plan must be provided to the supervising agency, all other parties, and the court at least seven days prior to the hearing.~~

The permanency plan shall include:

(a) A permanency plan of care that shall identify one of the following outcomes as a primary goal and may identify additional outcomes as alternative goals: Return of the child to the home of the child's parent, guardian, or legal custodian; adoption; guardianship; permanent legal custody; long-term relative or foster care, until the child is age eighteen, with a written agreement between the parties and the care provider; successful completion of a responsible living skills program; or independent living, if appropriate and if the child is age sixteen or older. The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW;

(b) Unless the court has ordered, pursuant to RCW 13.34.130(4), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to return the child home, what steps the agency will take to promote existing appropriate sibling relationships and/or

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facilitate placement together or contact in accordance with the best interests of each child, and what actions the agency will take to maintain parent-child ties. All aspects of the plan shall include the goal of achieving permanence for the child.

(i) The agency plan shall specify what services the parents will be offered to enable them to resume custody, what requirements the parents must meet to resume custody, and a time limit for each service plan and parental requirement.

(ii) Visitation is the right of the family, including the child and the parent, in cases in which visitation is in the best interest of the child. Early, consistent, and frequent visitation is crucial for maintaining parent-child relationships and making it possible for parents and children to safely reunify. The agency shall encourage the maximum parent and child and sibling contact possible, when it is in the best interest of the child, including regular visitation and participation by the parents in the care of the child while the child is in placement. Visitation shall not be limited as a sanction for a parent's failure to comply with court orders or services where the health, safety, or welfare of the child is not at risk as a result of the visitation. Visitation may be limited or denied only if the court determines that such limitation or denial is necessary to protect the child's health, safety, or welfare. The court and the agency should rely upon community resources, relatives, foster parents, and other appropriate persons to provide transportation and supervision for visitation to the extent that such resources are available, and appropriate, and the child's safety would not be compromised.

(iii) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(iv) Unless it is not in the best interests of the child, the plan should ensure the child remains enrolled in the school the child was attending at the time the child entered foster care.

(v) The agency charged with supervising a child in placement shall provide all reasonable services that are available within the agency, or within the community, or those services which the department has existing contracts to purchase. It shall report to the court if it is unable to provide such services; and

(c) If the court has ordered, pursuant to RCW 13.34.130(4), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to achieve permanency for the child, services to be offered or provided to the child, and, if visitation would be in the best interests of the child, a recommendation to the court regarding visitation between parent and child pending a fact-finding hearing on the termination petition. The agency shall not be required to develop a plan of services for the parents or provide services to the parents if the court orders a termination petition be filed. However, reasonable efforts to ensure visitation and contact between siblings shall be made unless there is reasonable cause to believe the best interests of the child or siblings would be jeopardized.

~~((2))~~ (3) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months. In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(4) If the court determines that the continuation of reasonable efforts to prevent or eliminate the need to remove the child from his or her home or to safely return the child home should not be part of the permanency plan of care for the child, reasonable efforts shall be made to place the child in a timely manner and to complete whatever steps are necessary to finalize the permanent placement of the child.

~~((3))~~ (5) The identified outcomes and goals of the permanency plan may change over time based upon the circumstances of the particular case.

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(6) The court shall consider the child's relationships with the child's siblings in accordance with RCW 13.34.130(3).

(7) For purposes related to permanency planning:

(a) "Guardianship" means a dependency guardianship or a legal guardianship pursuant to chapter 11.88 RCW or equivalent laws of another state or a federally recognized Indian tribe.

(b) "Permanent custody order" means a custody order entered pursuant to chapter 26.10 RCW.

(c) "Permanent legal custody" means legal custody pursuant to chapter 26.10 RCW or equivalent laws of another state or a federally recognized Indian tribe.

Sec. 9. RCW 13.34.138 and 2005 c 512 s 3 are each amended to read as follows:

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

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

(b) The supervising agency shall provide a foster parent or relative with notice of, and his or her right to an opportunity to be heard in, a review hearing pertaining to the child, but only if that person is currently providing care to the child at the time of the hearing. This section shall not be construed to grant party status to any person who has been provided an opportunity to be heard.

(c) The initial review hearing may be a permanency planning hearing when necessary to meet the time frames set forth in RCW 13.34.145 ~~((3))~~ (1)(a) or 13.34.134. ~~((The review shall include findings regarding the agency and parental completion of disposition plan requirements, and if necessary, revised permanency time limits. This review shall consider both the agency's and parent's efforts that demonstrate consistent measurable progress over time in meeting the disposition plan requirements. The requirements for the initial review hearing, including the in-court requirement, shall be accomplished within existing resources. The supervising agency shall provide a foster parent, preadoptive parent, or relative with notice of, and their right to an opportunity to be heard in, a review hearing pertaining to the child, but only if that person is currently providing care to that child at the time of the hearing. This section shall not be construed to grant party status to any person who has been provided an opportunity to be heard.))~~

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

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

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

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

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

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

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

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

~~((vii))~~ (vii) Whether ~~((the child has been placed in the least restrictive setting appropriate to the child's needs, including whether consideration and))~~ preference has been given to placement with the child's relatives;

~~((viii))~~ (viii) Whether there is a continuing need for placement and whether the placement is appropriate;

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

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

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

~~((vii))~~ Whether additional services, including housing assistance, are needed to facilitate the return of the child to the child's parents; if so, the court shall order that reasonable services be offered specifying such services; and

~~((viii))~~ (ix) Whether terms of visitation need to be modified;

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

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

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

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

~~((2))~~ (3)(a) In any case in which the court orders that a dependent child may be returned to or remain in the child's home, the in-home placement shall be contingent upon the following:

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

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

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

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

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

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

~~((3))~~ (4) The court's ability to order housing assistance under RCW 13.34.130 and this section is: (a) Limited to cases in which homelessness or the lack of adequate and safe housing is the primary reason for an out-of-home placement; and (b)

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subject to the availability of funds appropriated for this specific purpose.

~~((4))~~ (5) The court shall consider the child's relationship with siblings in accordance with RCW 13.34.130(3).

**Sec. 10.** RCW 13.34.145 and 2003 c 227 s 6 are each amended to read as follows:

(1) ~~((A permanency plan shall be developed no later than sixty days from the time the supervising agency assumes responsibility for providing services, including placing the child; or at the time of a hearing under RCW 13.34.130, whichever occurs first. The permanency planning process continues until a permanency planning goal is achieved or dependency is dismissed. The planning process shall include reasonable efforts to return the child to the parent's home.~~

~~— (a) Whenever a child is placed in out-of-home care pursuant to RCW 13.34.130, the agency that has custody of the child shall provide the court with a written permanency plan of care directed towards securing a safe, stable, and permanent home for the child as soon as possible. The plan shall identify one of the following outcomes as the primary goal and may also identify additional outcomes as alternative goals: Return of the child to the home of the child's parent, guardian, or legal custodian; adoption; guardianship; permanent legal custody; long-term relative or foster care, until the child is age eighteen, with a written agreement between the parties and the care provider; a responsible living skills program; and independent living, if appropriate and if the child is age sixteen or older and the provisions of subsection (2) of this section are met.~~

~~— (b) The identified outcomes and goals of the permanency plan may change over time based upon the circumstances of the particular case.~~

~~— (c) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months. In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.~~

~~— (d) For purposes related to permanency planning:~~

~~— (i) "Guardianship" means a dependency guardianship, a legal guardianship pursuant to chapter 11.88 RCW, or equivalent laws of another state or a federally recognized Indian tribe.~~

~~— (ii) "Permanent custody order" means a custody order entered pursuant to chapter 26.10 RCW.~~

~~— (iii) "Permanent legal custody" means legal custody pursuant to chapter 26.10 RCW or equivalent laws of another state or of a federally recognized Indian tribe.~~

~~— (2) Whenever a permanency plan identifies independent living as a goal, the plan shall also specifically identify the services that will be provided to assist the child to make a successful transition from foster care to independent living. Before the court approves independent living as a permanency plan of care, the court shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial, personal, social, educational, and nonfinancial affairs. The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.~~

~~— (3)) The purpose of a permanency planning hearing is to review the permanency plan for the child, inquire into the welfare of the child and progress of the case, and reach decisions regarding the permanent placement of the child.~~

~~— (a) A permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least nine months and an adoption decree, guardianship order, or permanent custody order has not previously been entered. The~~

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hearing shall take place no later than twelve months following commencement of the current placement episode.

~~((4))~~ (b) Whenever a child is removed from the home of a dependency guardian or long-term relative or foster care provider, and the child is not returned to the home of the parent, guardian, or legal custodian but is placed in out-of-home care, a permanency planning hearing shall take place no later than twelve months, as provided in ~~((subsection (3) of))~~ this section, following the date of removal unless, prior to the hearing, the child returns to the home of the dependency guardian or long-term care provider, the child is placed in the home of the parent, guardian, or legal custodian, an adoption decree, guardianship order, or a permanent custody order is entered, or the dependency is dismissed.

~~((5))~~ (c) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months. In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(2) No later than ten working days prior to the permanency planning hearing, the agency having custody of the child shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties and their legal counsel, if any.

~~((6))~~ (3) At the permanency planning hearing, the court shall ~~(enter findings as required by RCW 13.34.138 and shall review the permanency plan prepared by the agency))~~ conduct the following inquiry:

(a) If a goal of long-term foster or relative care has been achieved prior to the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remain appropriate.

(b) In cases where the primary permanency planning goal has not been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal. The court shall review the permanency plan prepared by the agency and make explicit findings regarding each of the following:

(i) The continuing necessity for, and the safety and appropriateness of, the placement;

(ii) The extent of compliance with the permanency plan by the agency and any other service providers, the child's parents, the child, and the child's guardian, if any;

(iii) The extent of any efforts to involve appropriate service providers in addition to agency staff in planning to meet the special needs of the child and the child's parents;

(iv) The progress toward eliminating the causes for the child's placement outside of his or her home and toward returning the child safely to his or her home or obtaining a permanent placement for the child;

(v) The date by which it is likely that the child will be returned to his or her home or placed for adoption, with a guardian or in some other alternative permanent placement; and

(vi) If the child has been placed outside of his or her home for fifteen of the most recent twenty-two months, not including any period during which the child was a runaway from the out-of-home placement or the first six months of any period during which the child was returned to his or her home for a trial home visit, the appropriateness of the permanency plan, whether reasonable efforts were made by the agency to achieve the goal of the permanency plan, and the circumstances which prevent the child from any of the following:

(A) Being returned safely to his or her home;

(B) Having a petition for the involuntary termination of parental rights filed on behalf of the child;

(C) Being placed for adoption;

(D) Being placed with a guardian;

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(E) Being placed in the home of a fit and willing relative of the child; or

(F) Being placed in some other alternative permanent placement, including independent living or long-term foster care.

(c)(i) If the permanency plan identifies independent living as a goal, the court shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial, personal, social, educational, and nonfinancial affairs prior to approving independent living as a permanency plan of care.

(ii) The permanency plan shall also specifically identify the services that will be provided to assist the child to make a successful transition from foster care to independent living.

(iii) The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(d) If the child has resided in the home of a foster parent or relative for more than six months prior to the permanency planning hearing, the court shall also enter a finding regarding whether the foster parent or relative was informed of the hearing as required in RCW 74.13.280 and 13.34.138. ~~((If a goal of long-term foster or relative care has been achieved prior to the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remain appropriate. In cases where the primary permanency planning goal has not been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal.))~~

(4) In all cases, at the permanency planning hearing, the court shall:

(a)(i) Order the permanency plan prepared by the agency to be implemented; or

(ii) Modify the permanency plan, and order implementation of the modified plan; and

(b)(i) Order the child returned home only if the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists; or

(ii) Order the child to remain in out-of-home care for a limited specified time period while efforts are made to implement the permanency plan.

~~((7))~~ (5) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.

(6) Prior to the second permanency planning hearing, the agency that has custody of the child shall consider whether to file a petition for termination of parental rights.

(7) If the court orders the child returned home, casework supervision shall continue for at least six months, at which time a review hearing shall be held pursuant to RCW 13.34.138, and the court shall determine the need for continued intervention.

(8) The juvenile court may hear a petition for permanent legal custody when: (a) The court has ordered implementation of a permanency plan that includes permanent legal custody; and (b) the party pursuing the permanent legal custody is the party identified in the permanency plan as the prospective legal custodian. During the pendency of such proceeding, the court shall conduct review hearings and further permanency planning hearings as provided in this chapter. At the conclusion of the legal guardianship or permanent legal custody proceeding, a juvenile court hearing shall be held for the purpose of determining whether dependency should be dismissed. If a guardianship or permanent custody order has been entered, the dependency shall be dismissed.

(9) Continued juvenile court jurisdiction under this chapter shall not be a barrier to the entry of an order establishing a legal

guardianship or permanent legal custody when the requirements of subsection (8) of this section are met.

~~((10))~~ (10) (Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.

~~((11))~~ (11) Except as provided in RCW 13.34.235, the status of all dependent children shall continue to be reviewed by the court at least once every six months, in accordance with RCW 13.34.138, until the dependency is dismissed. Prior to the second permanency planning hearing, the agency that has custody of the child shall consider whether to file a petition for termination of parental rights.

~~((12))~~ (12) Nothing in this chapter may be construed to limit the ability of the agency that has custody of the child to file a petition for termination of parental rights or a guardianship petition at any time following the establishment of dependency. Upon the filing of such a petition, a fact-finding hearing shall be scheduled and held in accordance with this chapter unless the agency requests dismissal of the petition prior to the hearing or unless the parties enter an agreed order terminating parental rights, establishing guardianship, or otherwise resolving the matter.

~~((13))~~ (11) The approval of a permanency plan that does not contemplate return of the child to the parent does not relieve the supervising agency of its obligation to provide reasonable services, under this chapter, intended to effectuate the return of the child to the parent, including but not limited to, visitation rights. The court shall consider the child's relationships with siblings in accordance with RCW 13.34.130.

~~((14))~~ (12) Nothing in this chapter may be construed to limit the procedural due process rights of any party in a termination or guardianship proceeding filed under this chapter.

**Sec. 11.** RCW 74.13.031 and 2006 c 266 s 1 and 2006 c 221 s 3 are each reenacted and amended to read as follows:

The department shall have the duty to provide child welfare services and shall:

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

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

(3) Investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency: PROVIDED, That an investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) Offer, on a voluntary basis, family reconciliation services to families who are in conflict.

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(5) Monitor out-of-home placements, on a timely and routine basis, to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010, and annually submit a report measuring the extent to which the department achieved the specified goals to the governor and the legislature.

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

(7) Have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(8) Have authority to purchase care for children; and shall follow in general the policy of using properly approved private agency services for the actual care and supervision of such children insofar as they are available, paying for care of such children as are accepted by the department as eligible for support at reasonable rates established by the department.

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

(10)(a) Have authority to provide continued foster care or group care as needed to participate in or complete a high school or vocational school program.

(b)(i) Beginning in 2006, the department has the authority to allow up to fifty youth reaching age eighteen to continue in foster care or group care as needed to participate in or complete a posthigh school academic or vocational program, and to receive necessary support and transition services.

(ii) In 2007 and 2008, the department has the authority to allow up to fifty additional youth per year reaching age eighteen to remain in foster care or group care as provided in (b)(i) of this subsection.

(iii) A youth who remains eligible for such placement and services pursuant to department rules may continue in foster care or group care until the youth reaches his or her twenty-first birthday. Eligibility requirements shall include active enrollment in a posthigh school academic or vocational program and maintenance of a 2.0 grade point average.

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

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

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this section all services to be provided by the department of social

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and health services under subsections (4), (6), and (7) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

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

(14) Have authority to provide independent living services to youths, including individuals who have attained eighteen years of age, and have not attained twenty-one years of age who are or have been in foster care.

(15) Consult at least quarterly with foster parents, including members of the foster parent association of Washington state, for the purpose of receiving information and comment regarding how the department is performing the duties and meeting the obligations specified in this section and RCW 74.13.250 and 74.13.320 regarding the recruitment of foster homes, reducing foster parent turnover rates, providing effective training for foster parents, and administering a coordinated and comprehensive plan that strengthens services for the protection of children. Consultation shall occur at the regional and statewide levels.

**NEW SECTION. Sec. 12.** (1) The secretary of the department of social and health services shall work in conjunction with the University of Washington to study the need for and the feasibility of creating tiered classifications for foster parent licensing, including a professional foster parent classification. The secretary of the department of social and health services and the dean of the school of social work, or his or her designee, at the University of Washington jointly shall facilitate a work group composed of: (a) The president of the senate shall appoint two members from each of the two largest caucuses of the senate; and the speaker of the house of representatives shall appoint two members from each of the two largest caucuses of the house of representatives; (b) four foster parents representing a diverse number of foster parent organizations throughout Washington state; (c) the director of the institute for children and families at the University of Washington; and (d) four or more child welfare professionals with subject matter expertise from the public, private, or academic communities.

(2) To promote the exchange of ideas and collaboration, the secretary and the director also shall convene at least two focused stakeholder meetings seeking input from a broad range of foster parents, social workers, and community members. To facilitate the exchange of ideas, the department of social and health services shall provide to the work group the contact information for licensed foster parents for the sole purpose of communicating with foster parents regarding issues relevant to foster parents. The work group shall keep the contact information confidential and shall develop guidelines for the use and maintenance of this contact information among work group members.

(3) The secretary of the department of social and health services and the dean of the school of social work, or his or her designee, at the University of Washington shall report the recommendations of the work group to the appropriate committees of the legislature by January 1, 2008.

**Sec. 13.** RCW 26.44.020 and 2006 c 339 s 108 are each amended to read as follows:

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

~~((1) "Court" means the superior court of the state of Washington, juvenile department.~~

~~(2) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.~~

~~(3) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and~~

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surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" includes a duly accredited Christian Science practitioner. ~~PROVIDED; HOWEVER, That a person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner will not be considered, for that reason alone, a neglected person for the purposes of this chapter.~~

~~—(4) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment or care.~~

~~—(5) "Department" means the state department of social and health services.~~

~~—(6) "Child" or "children" means any person under the age of eighteen years of age.~~

~~—(7) "Professional school personnel" include, but are not limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.~~

~~—(8) "Social service counselor" means anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.~~

~~—(9) "Psychologist" means any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.~~

~~—(10) "Pharmacist" means any registered pharmacist under chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.~~

~~—(11) "Clergy" means any regularly licensed or ordained minister, priest, or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.~~

~~—(12) "Abuse or neglect" means sexual abuse, sexual exploitation, or injury of a child by any person under circumstances which cause harm to the child's health, welfare, or safety, excluding conduct permitted under RCW 9A.16.100; or the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.~~

~~—(13) "Child protective services section" means the child protective services section of the department.~~

~~—(14) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.~~

~~—(15) "Negligent treatment or maltreatment" means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100. When considering whether a clear and present danger exists, evidence of a parent's substance abuse as a contributing factor to negligent treatment or maltreatment shall be given great weight. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment. Poverty, homelessness, or exposure to domestic violence as defined in RCW 26.50.010 that is perpetrated against someone other than the child does not constitute negligent treatment or maltreatment in and of itself.~~

~~—(16) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard such children from future abuse and neglect, and conduct investigations of child abuse and~~

~~neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. Child protective services includes referral to services to ameliorate conditions that endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.~~

~~—(17) "Malice" or "maliciously" means an evil intent, wish, or design to vex, annoy, or injure another person. Such malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.~~

~~—(18) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.~~

~~—(19) "Unfounded" means available information indicates that, more likely than not, child abuse or neglect did not occur. No unfounded allegation of child abuse or neglect may be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under chapter 74.15 RCW.)~~

~~(1) "Abuse or neglect" means sexual abuse, sexual exploitation, or injury of a child by any person under circumstances which cause harm to the child's health, welfare, or safety, excluding conduct permitted under RCW 9A.16.100; or the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.~~

~~(2) "Child" or "children" means any person under the age of eighteen years of age.~~

~~(3) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard such children from future abuse and neglect, and conduct investigations of child abuse and neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. Child protective services includes referral to services to ameliorate conditions that endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.~~

~~(4) "Child protective services section" means the child protective services section of the department.~~

~~(5) "Clergy" means any regularly licensed or ordained minister, priest, or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.~~

~~(6) "Court" means the superior court of the state of Washington, juvenile department.~~

~~(7) "Department" means the state department of social and health services.~~

~~(8) "Founded" means the determination following an investigation by the department that, based on available information, it is more likely than not that child abuse or neglect did occur.~~

~~(9) "Inconclusive" means the determination following an investigation by the department, prior to the effective date of this section, that based on available information a decision~~



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cannot be made that more likely than not, child abuse or neglect did or did not occur.

(10) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment, or care.

(11) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(12) "Malice" or "maliciously" means an evil intent, wish, or design to vex, annoy, or injure another person. Such malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.

(13) "Negligent treatment or maltreatment" means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100. When considering whether a clear and present danger exists, evidence of a parent's substance abuse as a contributing factor to negligent treatment or maltreatment shall be given great weight. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment. Poverty, homelessness, or exposure to domestic violence as defined in RCW 26.50.010 that is perpetrated against someone other than the child does not constitute negligent treatment or maltreatment in and of itself.

(14) "Pharmacist" means any registered pharmacist under chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(15) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" includes a duly accredited Christian Science practitioner: PROVIDED, HOWEVER, That a person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner will not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(16) "Professional school personnel" include, but are not limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(17) "Psychologist" means any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(18) "Screened-out report" means a report of alleged child abuse or neglect that the department has determined does not rise to the level of a credible report of abuse or neglect and is not referred for investigation.

(19) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

(20) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

(21) "Social service counselor" means anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(22) "Unfounded" means the determination following an investigation by the department that available information indicates that, more likely than not, child abuse or neglect did

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not occur, or that there is insufficient evidence for the department to determine whether the alleged child abuse did or did not occur.

**Sec. 14.** RCW 26.44.030 and 2005 c 417 s 1 are each amended to read as follows:

(1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, licensed or certified child care providers or their employees, employee of the department, juvenile probation officer, placement and liaison specialist, responsible living skills program staff, HOPE center staff, or state family and children's ombudsman or any volunteer in the ombudsman's office has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) When any person, in his or her official supervisory capacity with a nonprofit or for-profit organization, has reasonable cause to believe that a child has suffered abuse or neglect caused by a person over whom he or she regularly exercises supervisory authority, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency, provided that the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children or regularly has unsupervised access to a child or children as part of the employment, contract, or voluntary service. No one shall be required to report under this section when he or she obtains the information solely as a result of a privileged communication as provided in RCW 5.60.060.

Nothing in this subsection (1)(b) shall limit a person's duty to report under (a) of this subsection.

For the purposes of this subsection, the following definitions apply:

(i) "Official supervisory capacity" means a position, status, or role created, recognized, or designated by any nonprofit or for-profit organization, either for financial gain or without financial gain, whose scope includes, but is not limited to, overseeing, directing, or managing another person who is employed by, contracted by, or volunteers with the nonprofit or for-profit organization.

(ii) "Regularly exercises supervisory authority" means to act in his or her official supervisory capacity on an ongoing or continuing basis with regards to a particular person.

(c) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment, any department of corrections personnel has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(d) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(e) The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable

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cause to believe that the child has suffered abuse or neglect. The report must include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section does apply.

(3) Any other person who has reasonable cause to believe that a child has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child. Information considered privileged by statute and not directly related to reports required by this section must not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a

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child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving a report~~((s))~~ of alleged abuse or neglect, the department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which:

(a) The department believes there is a serious threat of substantial harm to the child;

(b) The report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or

(c) The department has a prior founded report of abuse or neglect with regard to a member of the household that is within three years of receipt of the referral.

(11)(a) For reports of alleged abuse or neglect that are accepted for investigation by the department, the investigation shall be conducted within time frames established by the department in rule. In no case shall the investigation extend longer than ninety days from the date the report is received, unless the investigation is being conducted under a written protocol pursuant to RCW 26.44.180 and a law enforcement agency or prosecuting attorney has determined that a longer investigation period is necessary. At the completion of the investigation, the department shall make a finding that the report of child abuse or neglect is founded or unfounded.

(b) If a court in a civil or criminal proceeding, considering the same facts or circumstances as are contained in the report being investigated by the department, makes a judicial finding by a preponderance of the evidence or higher that the subject of the pending investigation has abused or neglected the child, the department shall adopt the finding in its investigation.

(12) In conducting an investigation of alleged abuse or neglect, the department or law enforcement agency:

(a) May interview children. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. Parental notification of the interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation((-

(11) Upon receiving a report of alleged child abuse and neglect, the department or investigating law enforcement agency)); and

(b) Shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

((+2)) (13) The department shall maintain investigation records and conduct timely and periodic reviews of all founded cases ((constituting)) of abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

((+3)) (14) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all

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hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

~~((14))~~ (15) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

~~((15))~~ The department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which: (a) The department believes there is a serious threat of substantial harm to the child; (b) the report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or (c) the department has, after investigation, a report of abuse or neglect that has been founded with regard to a member of the household within three years of receipt of the referral.)

**Sec. 15.** RCW 26.44.031 and 1997 c 282 s 1 are each amended to read as follows:

(1) To protect the privacy in reporting and the maintenance of reports of nonaccidental injury, neglect, death, sexual abuse, and cruelty to children by their parents, and to safeguard against arbitrary, malicious, or erroneous information or actions, the department shall not disclose or maintain information related to ~~((unfounded referrals in files or))~~ reports of child abuse or neglect ~~((for longer than six years))~~ except as provided in this section or as otherwise required by state and federal law.

~~((At the end of six years from receipt of the unfounded report, the information shall be purged unless an additional report has been received in the intervening period.))~~

(2) The department shall destroy all of its records concerning:

(a) A screened-out report, within three years from the receipt of the report; and

(b) An unfounded or inconclusive report, within six years of completion of the investigation, unless a prior or subsequent founded report has been received regarding the child who is the subject of the report, a sibling or half-sibling of the child, or a parent, guardian, or legal custodian of the child before the records are destroyed.

(3) The department may keep records concerning founded reports of child abuse or neglect as the department determines by rule.

(4) An unfounded, screened-out, or inconclusive report may not be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under chapter 74.15 RCW.

~~(5)~~(a) If the department fails to comply with this section, an individual who is the subject of a report may institute proceedings for injunctive or other appropriate relief for enforcement of the requirement to purge information. These proceedings may be instituted in the superior court for the county in which the person resides or, if the person is not then a resident of this state, in the superior court for Thurston county.

(b) If the department fails to comply with subsection (4) of this section and an individual who is the subject of the report is harmed by the disclosure of information, in addition to the relief provided in (a) of this subsection, the court may award a penalty of up to one thousand dollars and reasonable attorneys' fees and court costs to the petitioner.

(c) A proceeding under this subsection does not preclude other methods of enforcement provided for by law.

(6) Nothing in this section shall prevent the department from retaining general, nonidentifying information which is required for state and federal reporting and management purposes.

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**Sec. 16.** RCW 74.13.280 and 2001 c 318 s 3 are each amended to read as follows:

(1) Except as provided in RCW 70.24.105, whenever a child is placed in out-of-home care by the department or a child-placing agency, the department or agency shall share information known to the department or agency about the child and the child's family with the care provider and shall consult with the care provider regarding the child's case plan. If the child is dependent pursuant to a proceeding under chapter 13.34 RCW, the department or agency shall keep the care provider informed regarding the dates and location of dependency review and permanency planning hearings pertaining to the child.

(2) Information about the child and the child's family shall include information known to the department or agency as to whether the child is a sexually reactive child, has exhibited high-risk behaviors, or is physically assaultive or physically aggressive, as defined in this section.

(3) Information about the child shall also include information known to the department or agency that the child:

(a) Has received a medical diagnosis of fetal alcohol syndrome or fetal alcohol effect;

(b) Has been diagnosed by a qualified mental health professional as having a mental health disorder;

(c) Has witnessed a death or substantial physical violence in the past or recent past; or

(d) Was a victim of sexual or severe physical abuse in the recent past.

(4) Any person who receives information about a child or a child's family pursuant to this section shall keep the information confidential and shall not further disclose or disseminate the information except as authorized by law.

~~((3))~~ (5) Nothing in this section shall be construed to limit the authority of the department or child-placing agencies to disclose client information or to maintain client confidentiality as provided by law.

(6) As used in this section:

(a) "Sexually reactive child" means a child who exhibits sexual behavior problems including, but not limited to, sexual behaviors that are developmentally inappropriate for their age or are harmful to the child or others.

(b) "High-risk behavior" means an observed or reported and documented history of one or more of the following:

(i) Suicide attempts or suicidal behavior or ideation;

(ii) Self-mutilation or similar self-destructive behavior;

(iii) Fire-setting or a developmentally inappropriate fascination with fire;

(iv) Animal torture;

(v) Property destruction; or

(vi) Substance or alcohol abuse.

(c) "Physically assaultive or physically aggressive" means a child who exhibits one or more of the following behaviors that are developmentally inappropriate and harmful to the child or to others:

(i) Observed assaultive behavior;

(ii) Reported and documented history of the child willfully assaulting or inflicting bodily harm; or

(iii) Attempting to assault or inflict bodily harm on other children or adults under circumstances where the child has the apparent ability or capability to carry out the attempted assaults including threats to use a weapon.

**NEW SECTION. Sec. 17.** A new section is added to chapter 74.13 RCW to read as follows:

(1) A care provider may not be found to have abused or neglected a child under chapter 26.44 RCW or be denied a license pursuant to chapter 74.15 RCW and RCW 74.13.031 for any allegations of failure to supervise wherein:

(a) The allegations arise from the child's conduct that is substantially similar to prior behavior of the child, and:

(i) The child is a sexually reactive youth, exhibits high-risk behaviors, or is physically assaultive or physically aggressive as defined in RCW 74.13.280, and this information and the child's

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prior behavior was not disclosed to the care provider as required by RCW 74.13.280; and

(ii) The care provider did not know or have reason to know that the child needed supervision as a sexually reactive or physically assaultive or physically aggressive youth, or because of a documented history of high-risk behaviors, as a result of the care provider's involvement with or independent knowledge of the child or training and experience; or

(b) The child was not within the reasonable control of the care provider at the time of the incident that is the subject of the allegation, and the care provider was acting in good faith and did not know or have reason to know that reasonable control or supervision of the child was necessary to prevent harm or risk of harm to the child or other persons.

(2) Allegations of child abuse or neglect that meet the provisions of this section shall be designated as "unfounded" as defined in RCW 26.44.020.

**Sec. 18.** RCW 74.15.130 and 2006 c 265 s 404 are each amended to read as follows:

(1) An agency may be denied a license, or any license issued pursuant to chapter 74.15 RCW and RCW 74.13.031 may be suspended, revoked, modified, or not renewed by the secretary upon proof (a) that the agency has failed or refused to comply with the provisions of chapter 74.15 RCW and RCW 74.13.031 or the requirements promulgated pursuant to the provisions of chapter 74.15 RCW and RCW 74.13.031; or (b) that the conditions required for the issuance of a license under chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such licenses. RCW 43.20A.205 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.

(2) In any adjudicative proceeding regarding the denial, modification, suspension, or revocation of a foster family home license, the department's decision shall be upheld if there is reasonable cause to believe that:

(a) The applicant or licensee lacks the character, suitability, or competence to care for children placed in out-of-home care, however, no unfounded, inconclusive, or screened-out report of child abuse or neglect may be used to deny employment or a license;

(b) The applicant or licensee has failed or refused to comply with any provision of chapter 74.15 RCW, RCW 74.13.031, or the requirements adopted pursuant to such provisions; or

(c) The conditions required for issuance of a license under chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such licenses.

(3) In any adjudicative proceeding regarding the denial, modification, suspension, or revocation of any license under this chapter, other than a foster family home license, the department's decision shall be upheld if it is supported by a preponderance of the evidence.

(4) The department may assess civil monetary penalties upon proof that an agency has failed or refused to comply with the rules adopted under the provisions of this chapter and RCW 74.13.031 or that an agency subject to licensing under this chapter and RCW 74.13.031 is operating without a license except that civil monetary penalties shall not be levied against a licensed foster home. Monetary penalties levied against unlicensed agencies that submit an application for licensure within thirty days of notification and subsequently become licensed will be forgiven. These penalties may be assessed in addition to or in lieu of other disciplinary actions. Civil monetary penalties, if imposed, may be assessed and collected, with interest, for each day an agency is or was out of compliance. Civil monetary penalties shall not exceed two hundred fifty dollars per violation for group homes and child-placing agencies. Each day upon which the same or substantially similar action occurs is a separate violation subject to the assessment of a separate penalty. The department shall provide a notification period before a monetary penalty is effective and may forgive the penalty levied if the agency comes

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into compliance during this period. The department may suspend, revoke, or not renew a license for failure to pay a civil monetary penalty it has assessed pursuant to this chapter within ten days after such assessment becomes final. Chapter 43.20A RCW governs notice of a civil monetary penalty and provides the right of an adjudicative proceeding. The preponderance of evidence standard shall apply in adjudicative proceedings related to assessment of civil monetary penalties.

**Sec. 19.** RCW 74.13.650 and 2006 c 353 s 2 are each amended to read as follows:

A foster parent critical support and retention program is established to retain foster parents who care for sexually reactive children, physically assaultive children, or children with other high-risk behaviors, as defined in RCW 74.13.280. Services shall consist of short-term therapeutic and educational interventions to support the stability of the placement. The foster parent critical support and retention program is to be implemented under the division of children and family services' contract and supervision. A contractor must demonstrate experience providing in-home case management, as well as experience working with caregivers of children with significant behavioral issues that pose a threat to others or themselves or the stability of the placement.

**Sec. 20.** RCW 74.13.660 and 2006 c 353 s 3 are each amended to read as follows:

Under the foster parent critical support and retention program, foster parents who care for sexually reactive children, physically assaultive children, or children with other high-risk behaviors, as defined in RCW 74.13.280, shall receive:

(1) Availability at any time of the day or night to address specific concerns related to the identified child;

(2) Assessment of risk and development of a safety and supervision plan;

(3) Home-based foster parent training utilizing evidence-based models; and

(4) Referral to relevant community services and training provided by the local children's administration office or community agencies.

**Sec. 21.** RCW 26.44.060 and 2004 c 37 s 1 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection, any person participating in good faith in the making of a report pursuant to this chapter or testifying as to alleged child abuse or neglect in a judicial proceeding shall in so doing be immune from any liability arising out of such reporting or testifying under any law of this state or its political subdivisions.

(b) A person convicted of a violation of subsection (4) of this section shall not be immune from liability under (a) of this subsection.

(2) An administrator of a hospital or similar institution or any physician licensed pursuant to chapters 18.71 or 18.57 RCW taking a child into custody pursuant to RCW 26.44.056 shall not be subject to criminal or civil liability for such taking into custody.

(3) Conduct conforming with the reporting requirements of this chapter shall not be deemed a violation of the confidential communication privilege of RCW 5.60.060 (3) and (4), 18.53.200 and 18.83.110. Nothing in this chapter shall be construed as to supersede or abridge remedies provided in chapter 4.92 RCW.

(4) A person who, intentionally and in bad faith ((or maliciously)), knowingly makes a false report of alleged abuse or neglect shall be guilty of a misdemeanor punishable in accordance with RCW 9A.20.021.

(5) A person who, in good faith and without gross negligence, cooperates in an investigation arising as a result of a report made pursuant to this chapter, shall not be subject to civil liability arising out of his or her cooperation. This subsection does not apply to a person who caused or allowed the child abuse or neglect to occur.

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**NEW SECTION. Sec. 22.** A new section is added to chapter 26.44 RCW to read as follows:

(1) The child protective services section shall prepare a statement warning against false reporting of alleged child abuse or neglect for inclusion in any instructions, informational brochures, educational forms, and handbooks developed or prepared for or by the department and relating to the reporting of abuse or neglect of children. Such statement shall include information on the criminal penalties that apply to false reports of alleged child abuse or neglect under RCW 26.44.060(4). It shall not be necessary to reprint existing materials if any other less expensive technique can be used. Materials shall be revised when reproduced.

(2) The child protective services section shall send a letter by certified mail to any person determined by the section to have made a false report of child abuse or neglect informing the person that such a determination has been made and that a second or subsequent false report will be referred to the proper law enforcement agency for investigation.

**NEW SECTION. Sec. 23.** Section 12 of this act expires January 1, 2008.

**NEW SECTION. Sec. 24.** Sections 13 through 15 of this act take effect October 1, 2008.

**NEW SECTION. Sec. 25.** The secretary of the department of social and health services may take the necessary steps to ensure that sections 13 through 15 of this act are implemented on their effective date.

**NEW SECTION. Sec. 26.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

MOTION

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

On page 32, line 31, after "parents" strike all material through "state" on line 33 and insert ", including two representatives from the foster parent association of Washington state"

On page 32, line 34, after "Washington;" strike "and"

On page 32, line 34, after "(d)" insert "a representative of the Washington federation of state employees; and (e)"

Renumber the sections consecutively and correct any internal references accordingly.

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

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove and Zarelli on page 32, line 31 to the committee striking amendment to Engrossed Substitute House Bill No. 1624.

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means as amended to Engrossed Substitute House Bill No. 1624.

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

MOTION

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

On page 1, line 1 of the title, after "welfare;" strike the remainder of the title and insert "amending RCW 13.34.200,

13.34.060, 13.34.062, 13.34.065, 13.34.110, 13.34.136, 13.34.138, 13.34.145, 26.44.020, 26.44.030, 26.44.031, 74.13.280, 74.15.130, 74.13.650, 74.13.660, and 26.44.060; reenacting and amending RCW 74.13.031; adding a new section to chapter 13.34 RCW; adding a new section to chapter 43.20A RCW; adding a new section to chapter 74.13 RCW; adding a new section to chapter 26.44 RCW; creating new sections; providing an effective date; and providing an expiration date."

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Substitute House Bill No. 1624 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator Regala, Senators Brown and Pridemore were excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1624 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1624 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Benton, Berkeley, 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, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 44

Excused: Senators Brown, Hewitt, Poulsen, Pridemore and Tom - 5

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1624 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. 1528, by Representatives Hunt, Chandler, Green, Kretz, Ormsby, Armstrong, Miloscia, Appleton, Kenney, Goodman and Moeller

Providing for electronic voter registration.

The measure was read the second time.

MOTION

On motion of Senator Oemig, the rules were suspended, House Bill No. 1528 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Oemig spoke in favor of passage of the bill.

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## POINT OF INQUIRY

Senator Benton: "Would Senator Oemig yield to a question? Senator, can you tell me if this bill will allow registration via computer? Will it be allowed on the day of the election and if so, I guess my question goes to a previous bill that we passed in this chamber, that you're familiar with, that would allow registration up to the day of the election. In committee we had this question but we didn't know then which bill was passing and which one wasn't. But now that we've passed the one that will allow registration on the day of election, now, passing this bill that will allow registration via computer, how will those two work together? And what is, can you share with us the legislative intent, then, in terms of how those two might work together, those two bills?"

Senator Oemig: "I thank the good Senator for his thoughtful question. This bill specifies a means for registering on line. It doesn't change dates. It doesn't change procedures. It doesn't change how late registration would be done. In the current context, in absence of any other changes, this bill would allow someone to register on line and the provisions that people have already for late, for that window, from thirty days to election day, are unaffected by this legislation. So, if this were allowed in a county this would continue to be allowed in the window from thirty to fifteen. If we were to make legislation to allow registration all the way up to election day and the county, had provisions to allow for this mechanism, this could also be used. If a county further said, 'and we'd allow you to register at the poll on election.' That would be one more mechanism. So, the power really rests with the counties of how they want to manage their elections and this bill would not change impact or influence how they would make their local decision."

Senator Roach spoke on passage of the bill.

## REMARKS BY THE PRESIDENT

President Owen: "Senator Roach, you're referring to actions of the other body which are not permitted on this floor. Senator Roach."

## POINT OF ORDER

Senator Oemig: "I object. I think the discussion should be limited to the current bill before us not another bill in another chamber."

Senator Roach spoke on passage of the bill

Senator Kastama 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. 1528.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1528 and the bill passed the Senate by the following vote: Yeas, 30; Nays, 17; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel and Weinstein - 30

Voting nay: Senators Benton, Brandland, Carrell, Clements,

Delvin, Holmquist, Honeyford, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 17

Excused: Senators Hewitt and Tom - 2

HOUSE BILL NO. 1528, 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. 1366, by Representatives Kessler, DeBolt, Grant, Ericksen, Lantz, Rodne, Williams, Priest, Morrell, Hunt, Appleton, Blake, Chase, Anderson, Darneille, Dickerson, Linville, Springer, Hurst and Wood

Protecting the news media from being compelled to testify in legal proceedings.

The measure was read the second time.

## MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) Except as provided in subsection (2) of this section, no judicial, legislative, administrative, or other body with the power to issue a subpoena or other compulsory process may compel the news media to testify, produce, or otherwise disclose:

(a) The identity of a source of any news or information or any information that would tend to identify the source where such source has a reasonable expectation of confidentiality; or

(b) Any news or information obtained or prepared by the news media in its capacity in gathering, receiving, or processing news or information for potential communication to the public, including, but not limited to, any notes, outtakes, photographs, video or sound tapes, film, or other data of whatever sort in any medium now known or hereafter devised. This does not include physical evidence of a crime.

(2) A court may compel disclosure of the news or information described in subsection (1)(b) of this section if the court finds that the party seeking such news or information established by clear and convincing evidence:

(a)(i) In a criminal investigation or prosecution, based on information other than that information being sought, that there are reasonable grounds to believe that a crime has occurred; or

(ii) In a civil action or proceeding, based on information other than that information being sought, that there is a prima facie cause of action; and

(b) In all matters, whether criminal or civil, that:

(i) The news or information is highly material and relevant;

(ii) The news or information is critical or necessary to the maintenance of a party's claim, defense, or proof of an issue material thereto;

(iii) The party seeking such news or information has exhausted all reasonable and available means to obtain it from alternative sources; and

(iv) There is a compelling public interest in the disclosure. A court may consider whether or not the news or information was obtained from a confidential source in evaluating the public interest in disclosure.

(3) The protection from compelled disclosure contained in subsection (1) of this section also applies to any subpoena issued to, or other compulsory process against, a nonnews media party where such subpoena or process seeks records, information, or other communications relating to business transactions between such nonnews media party and the news media for the purpose of discovering the identity of a source or

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obtaining news or information described in subsection (1) of this section. Whenever a subpoena is issued to, or other compulsory process is initiated against, a nonnews media party where such subpoena or process seeks information or communications on business transactions with the news media, the affected news media shall be given reasonable and timely notice of the subpoena or compulsory process before it is executed or initiated, as the case may be, and an opportunity to be heard. In the event that the subpoena to, or other compulsory process against, the nonnews media party is in connection with a criminal investigation in which the news media is the express target, and advance notice as provided in this section would pose a clear and substantial threat to the integrity of the investigation, the governmental authority shall so certify to such a threat in court and notification of the subpoena or compulsory process shall be given to the affected news media as soon thereafter as it is determined that such notification will no longer pose a clear and substantial threat to the integrity of the investigation.

(4) Publication or dissemination by the news media of news or information described in subsection (1) of this section, or a portion thereof, shall not constitute a waiver of the protection from compelled disclosure that is contained in subsection (1) of this section. In the event that the fact of publication of news or information must be proved in any proceeding, that fact and the contents of the publication may be established by judicial notice.

(5) The term "news media" means:

(a) Any newspaper, magazine or other periodical, book publisher, news agency, wire service, radio or television station or network, cable or satellite station or network, or audio or audiovisual production company, or any entity that is in the regular business of news gathering and disseminating news or information to the public by any means, including, but not limited to, print, broadcast, photographic, mechanical, internet, or electronic distribution;

(b) Any person who is or has been an employee, agent, or independent contractor of any entity listed in (a) of this subsection, who is or has been engaged in bona fide news gathering for such entity, and who obtained or prepared the news or information that is sought while serving in that capacity; or

(c) Any parent, subsidiary, or affiliate of the entities listed in (a) or (b) of this subsection to the extent that the subpoena or other compulsory process seeks news or information described in subsection (1) of this section.

(6) In all matters adjudicated pursuant to this section, a court of competent jurisdiction may exercise its inherent powers to conduct all appropriate proceedings required in order to make necessary findings of fact and enter conclusions of law.

**NEW SECTION. Sec. 2.** Section 1 of this act constitutes a new chapter in Title 5 RCW."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary to House Bill No. 1366.

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 2 of the title, after "media;" strike the remainder of the title and insert "and adding a new chapter to Title 5 RCW."

MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 1366 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 Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1366 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1366 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 41; Nays, 6; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Brandland, Brown, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 41

Voting nay: Senators Benton, Carrell, McCaslin, Morton, Poulsen and Regala - 6

Excused: Senators Hewitt and Tom - 2

HOUSE BILL NO. 1366 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 Carrell, Senator Pflug was excused.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1096, by House Committee on Appropriations (originally sponsored by Representatives Kenney, Priest, Quall, Wallace, Conway, Haler, Morris, Ormsby, Linville, Jarrett, Dickerson, Hunt, Walsh, P. Sullivan, Darnelle, Appleton, Morrell, Williams, Dunn, Schual-Berke, Fromhold, Hasegawa, Chase, Upthegrove, McCoy, Green, O'Brien, Hudgins, Sells, Springer, Moeller, Goodman, Barlow, Eddy, Santos, Simpson, Haigh, Lantz, Kagi and Rolfes)

Creating postsecondary opportunity programs.

The measure was read the second time.

MOTION

Senator Shin 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.** The legislature finds that:

(1) The economic trends of globalization and technological change are increasing the demand for higher and differently skilled workers than in the past;

(2) Increasing Washington's economic competitiveness requires increasing the supply of skilled workers in the state;

(3) Improving the labor market competitiveness of all Washington residents requires that all residents have access to postsecondary education; and

(4) Community and technical college workforce training programs and Washington state apprenticeship and training council-approved apprenticeship programs provide effective and efficient pathways for people to enter high wage, high skill careers while also meeting the needs of the economy.

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**PART 1  
OPPORTUNITY GRANT PROGRAM**

NEW SECTION. Sec. 101. A new section is added to chapter 28B.50 RCW to read as follows:

(1) The college board shall develop and implement a workforce education program known as the opportunity grant program to provide financial and other assistance for students enrolled at qualified institutions of higher education in opportunity grant-eligible programs of study as described in section 201 of this act. Students enrolled in the opportunity grant program are eligible for:

(a) Funding for tuition and mandatory fees at the public community and technical college rate, prorated if the credit load is less than full time, paid directly to the educational institution; and

(b) An additional one thousand dollars per academic year for books, tools, and supplies, prorated if the credit load is less than full time.

(2) Funding under subsection (1)(a) and (b) of this section is limited to a maximum forty-five credits or the equivalent in an opportunity grant-eligible program of study, including required related courses. No student may receive opportunity grant funding for more than forty-five credits or for more than three years from initial receipt of grant funds in one or a combination of programs.

(3) Grants awarded under this section are subject to the availability of amounts appropriated for this specific purpose.

NEW SECTION. Sec. 102. A new section is added to chapter 28B.50 RCW to read as follows:

(1) To be eligible for participation in the opportunity grant program established in section 101 of this act, a student must:

(a) Be a Washington resident student as defined in RCW 28B.15.012 enrolled in an opportunity grant-eligible program of study;

(b) Have a family income that is at or below two hundred percent of the federal poverty level using the most current guidelines available from the United States department of health and human services, and be determined to have financial need based on the free application for federal student aid; and

(c) Meet such additional selection criteria as the college board shall establish in order to operate the program within appropriated funding levels.

(2) Upon enrolling, the student must provide evidence of commitment to complete the program. The student must make satisfactory progress and maintain a cumulative 2.0 grade point average for continued eligibility. If a student's cumulative grade point average falls below 2.0, the student may petition the institution of higher education of attendance. The qualified institution of higher education has the authority to establish a probationary period until such time as the student's grade point average reaches required standards.

(3) Subject to funds appropriated for this specific purpose, public qualified institutions of higher education shall receive an enhancement of one thousand five hundred dollars for each full-time equivalent student enrolled in the opportunity grant program whose income is below two hundred percent of the federal poverty level. The funds shall be used for individualized support services which may include, but are not limited to, college and career advising, tutoring, emergency child care, and emergency transportation. The qualified institution of higher education is expected to help students access all financial resources and support services available to them through alternative sources.

(4) The college board shall be accountable for student retention and completion of opportunity grant-eligible programs of study. It shall set annual performance measures and targets and monitor the performance at all qualified institutions of higher education. The college board must reduce funding at institutions of higher education that do not meet targets for two

consecutive years, based on criteria developed by the college board.

(5) The college board and higher education coordinating board shall work together to ensure that students participating in the opportunity grant program are informed of all other state and federal financial aid to which they may be entitled while receiving an opportunity grant.

(6) The college board and higher education coordinating board shall document the amount of opportunity grant assistance and the types and amounts of other sources of financial aid received by participating students. Annually, they shall produce a summary of the data.

(7) The college board shall:

(a) Begin developing the program no later than August 1, 2007, with student enrollment to begin no later than January 14, 2008; and

(b) Submit a progress report to the legislature by December 1, 2008.

(8) The college board may, in implementing the opportunity grant program, accept, use, and expend or dispose of contributions of money, services, and property. All such moneys received by the college board for the program must be deposited in an account at a depository approved by the state treasurer. Only the college board or a duly authorized representative thereof may authorize expenditures from this account. In order to maintain an effective expenditure and revenue control, the account is subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditure of moneys in the account.

**PART 2  
OPPORTUNITY PARTNERSHIPS**

NEW SECTION. Sec. 201. A new section is added to chapter 28B.50 RCW to read as follows:

The college board, in partnership with business, labor, and the workforce training and education coordinating board, shall:

(1) Identify job specific training programs offered by qualified postsecondary institutions that lead to a credential, certificate, or degree in high demand occupations, which are occupations where data show that employer demand for workers exceeds the supply of qualified job applicants throughout the state or in a specific region, and where training capacity is underutilized;

(2) Gain recognition of the credentials, certificates, and degrees by Washington's employers and labor organizations. The college board shall designate these recognized credentials, certificates, and degrees as "opportunity grant-eligible programs of study"; and

(3) Market the credentials, certificates, and degrees to potential students, businesses, and apprenticeship programs as a way for individuals to advance in their careers and to better meet the needs of industry.

NEW SECTION. Sec. 202. A new section is added to chapter 28B.50 RCW to read as follows:

(1) Community and technical colleges shall partner with local workforce development councils to develop the opportunity partnership program. The opportunity partnership program may be newly developed or part of an existing program, and shall provide mentoring to students participating in the opportunity grant program. The program must develop criteria and identify opportunity grant students who would benefit by having a mentor. Each participating student shall be matched with a business or labor mentor employed in the field in which the student is interested. The mentor shall help the student explore careers and employment options through any combination of tours, informational interviews, job shadowing, and internships.

(2) Subject to funds appropriated for this specific purpose, the workforce training and education coordinating board shall create the opportunity partnership program. The board, in



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partnership with business, labor, and the college board, shall determine the criteria for the distribution of funds.

(3) The board may, in implementing this section, accept, use, and dispose of contributions of money, services, and property. All moneys received by the board for the purposes of this section must be deposited in a depository approved by the state treasurer. Only the board or a duly authorized representative thereof may authorize expenditures from this account. In order to maintain an effective expenditure and revenue control, the account is subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditure of moneys in the account.

### PART 3 MISCELLANEOUS

**Sec. 301.** RCW 28B.50.030 and 2005 c 258 s 8 are each amended to read as follows:

As used in this chapter, unless the context requires otherwise, the term:

(1) "System" shall mean the state system of community and technical colleges, which shall be a system of higher education.

(2) "Board" shall mean the work force training and education coordinating board.

(3) "College board" shall mean the state board for community and technical colleges created by this chapter.

(4) "Director" shall mean the administrative director for the state system of community and technical colleges.

(5) "District" shall mean any one of the community and technical college districts created by this chapter.

(6) "Board of trustees" shall mean the local community and technical college board of trustees established for each college district within the state.

(7) "Occupational education" shall mean that education or training that will prepare a student for employment that does not require a baccalaureate degree, and education and training leading to an applied baccalaureate degree.

(8) "K-12 system" shall mean the public school program including kindergarten through the twelfth grade.

(9) "Common school board" shall mean a public school district board of directors.

(10) "Community college" shall include those higher education institutions that conduct education programs under RCW 28B.50.020.

(11) "Technical college" shall include those higher education institutions with the sole mission of conducting occupational education, basic skills, literacy programs, and offering on short notice, when appropriate, programs that meet specific industry needs. The programs of technical colleges shall include, but not be limited to, continuous enrollment, competency-based instruction, industry-experienced faculty, curriculum integrating vocational and basic skills education, and curriculum approved by representatives of employers and labor. For purposes of this chapter, technical colleges shall include Lake Washington Vocational-Technical Institute, Renton Vocational-Technical Institute, Bates Vocational-Technical Institute, Clover Park Vocational Institute, and Bellingham Vocational-Technical Institute.

(12) "Adult education" shall mean all education or instruction, including academic, vocational education or training, basic skills and literacy training, and "occupational education" provided by public educational institutions, including common school districts for persons who are eighteen years of age and over or who hold a high school diploma or certificate. However, "adult education" shall not include academic education or instruction for persons under twenty-one years of age who do not hold a high school degree or diploma and who are attending a public high school for the sole purpose of obtaining a high school diploma or certificate, nor shall "adult education" include education or instruction provided by any four year public institution of higher education.

(13) "Dislocated forest product worker" shall mean a forest products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business' services or goods; and (b) at the time of last separation from employment, resided in or was employed in a rural natural resources impact area.

(14) "Forest products worker" shall mean a worker in the forest products industries affected by the reduction of forest fiber enhancement, transportation, or production. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries assigned the major group standard industrial classification codes "24" and "26" and the industries involved in the harvesting and management of logs, transportation of logs and wood products, processing of wood products, and the manufacturing and distribution of wood processing and logging equipment. The commissioner may adopt rules further interpreting these definitions. For the purposes of this subsection, "standard industrial classification code" means the code identified in RCW 50.29.025(3).

(15) "Dislocated salmon fishing worker" means a finfish products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business's services or goods; and (b) at the time of last separation from employment, resided in or was employed in a rural natural resources impact area.

(16) "Salmon fishing worker" means a worker in the finfish industry affected by 1994 or future salmon disasters. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries involved in the commercial and recreational harvesting of finfish including buying and processing finfish. The commissioner may adopt rules further interpreting these definitions.

(17) "Rural natural resources impact area" means:

(a) A nonmetropolitan county, as defined by the 1990 decennial census, that meets three of the five criteria set forth in subsection (18) of this section;

(b) A nonmetropolitan county with a population of less than forty thousand in the 1990 decennial census, that meets two of the five criteria as set forth in subsection (18) of this section; or

(c) A nonurbanized area, as defined by the 1990 decennial census, that is located in a metropolitan county that meets three of the five criteria set forth in subsection (18) of this section.

(18) For the purposes of designating rural natural resources impact areas, the following criteria shall be considered:

(a) A lumber and wood products employment location quotient at or above the state average;

(b) A commercial salmon fishing employment location quotient at or above the state average;

(c) Projected or actual direct lumber and wood products job losses of one hundred positions or more;

(d) Projected or actual direct commercial salmon fishing job losses of one hundred positions or more; and

(e) An unemployment rate twenty percent or more above the state average. The counties that meet these criteria shall be determined by the employment security department for the most recent year for which data is available. For the purposes of administration of programs under this chapter, the United States post office five-digit zip code delivery areas will be used to determine residence status for eligibility purposes. For the purpose of this definition, a zip code delivery area of which any part is ten miles or more from an urbanized area is considered

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nonurbanized. A zip code totally surrounded by zip codes qualifying as nonurbanized under this definition is also considered nonurbanized. The office of financial management shall make available a zip code listing of the areas to all agencies and organizations providing services under this chapter.

(19) "Applied baccalaureate degree" means a baccalaureate degree awarded by a college under RCW 28B.50.810 for successful completion of a program of study that is:

(a) Specifically designed for individuals who hold an associate of applied science degree, or its equivalent, in order to maximize application of their technical course credits toward the baccalaureate degree; and

(b) Based on a curriculum that incorporates both theoretical and applied knowledge and skills in a specific technical field.

(20) "Qualified institutions of higher education" means:

(a) Washington public community and technical colleges;

(b) Private career schools that are members of an accrediting association recognized by rule of the higher education coordinating board for the purposes of chapter 28B.92 RCW; and

(c) Washington state apprenticeship and training council-approved apprenticeship programs.

**NEW SECTION. Sec. 302.** Part headings used in this act are not any part of the law."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Second Substitute House Bill No. 1096.

The motion by Senator Shin 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 "programs;" strike the remainder of the title and insert "amending RCW 28B.50.030; adding new sections to chapter 28B.50 RCW; and creating new sections."

#### MOTION

On motion of Senator Shin, the rules were suspended, Second Substitute House Bill No. 1096 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 Shin spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Regala, Senator Hargrove was excused.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1096 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1096 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

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Hatfield, Haugen, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 45

Excused: Senators Hargrove, Hewitt, Pflug and Tom - 4

SECOND SUBSTITUTE HOUSE BILL NO. 1096 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. 2135, by Representatives Wood, Condotta and Ormsby

Expanding lemon law coverage to out-of-state consumers.

The measure was read the second time.

#### MOTION

Senator Weinstein moved that the following committee amendment by the Committee on Consumer Protection & Housing be adopted.

On page 5, beginning on line 17, strike all of section 2

Senator Weinstein 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 Consumer Protection & Housing to House Bill No. 2135.

The motion by Senator Weinstein 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 2 of the title, after "consumers;" strike the remainder of the title and insert "and amending RCW 19.118.021."

#### MOTION

On motion of Senator Weinstein, the rules were suspended, House Bill No. 2135 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 Weinstein spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Delvin, Senator Swecker was excused.

Senator Honeyford spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2135 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House

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Bill No. 2135 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Brown, 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, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Weinstein and Zarelli - 45

Excused: Senators Hewitt, Pflug, Swecker and Tom - 4

HOUSE BILL NO. 2135 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. 1592, by Representative Hurst

Revising provisions relating to the indeterminate sentence review board.

The measure was read the second time.

## MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9.95.011 and 2002 c 174 s 2 are each amended to read as follows:

(1) When the court commits a convicted person to the department of corrections on or after July 1, 1986, for an offense committed before July 1, 1984, the court shall, at the time of sentencing or revocation of probation, fix the minimum term. The term so fixed shall not exceed the maximum sentence provided by law for the offense of which the person is convicted.

The court shall attempt to set the minimum term reasonably consistent with the purposes, standards, and sentencing ranges adopted under RCW 9.94A.850, but the court is subject to the same limitations as those placed on the board under RCW 9.92.090, 9.95.040 (1) through (4), 9.95.115, 9A.32.040, 9A.44.045, and chapter 69.50 RCW. The court's minimum term decision is subject to review to the same extent as a minimum term decision by the parole board before July 1, 1986.

Thereafter, the expiration of the minimum term set by the court minus any time credits earned under RCW 9.95.070 and 9.95.110 constitutes the parole eligibility review date, at which time the board may consider the convicted person for parole under RCW 9.95.100 and 9.95.110 and chapter 72.04A RCW. Nothing in this section affects the board's authority to reduce or increase the minimum term, once set by the court, under RCW 9.95.040, 9.95.052, 9.95.055, 9.95.070, 9.95.080, 9.95.100, 9.95.115, 9.95.125, or 9.95.047.

(2)(a) Except as provided in (b) of this subsection, not less than ninety days prior to the expiration of the minimum term of a person sentenced under RCW 9.94A.712, for a sex offense committed on or after September 1, 2001, less any time credits permitted by statute, the board shall review the person for conditional release to community custody as provided in RCW 9.95.420. If the board does not release the person, it shall set a new minimum term not to exceed an additional ~~((two))~~ five years. The board shall review the person again not less than ninety days prior to the expiration of the new minimum term.

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(b) If at the time a person sentenced under RCW 9.94A.712 for a sex offense committed on or after September 1, 2001, arrives at a department of corrections facility, the offender's minimum term has expired or will expire within one hundred twenty days of the offender's arrival, then no later than one hundred twenty days after the offender's arrival at a department of corrections facility, but after the board receives the results from the end of sentence review process and the recommendations for additional or modified conditions of community custody from the department, the board shall review the person for conditional release to community custody as provided in RCW 9.95.420. If the board does not release the person, it shall set a new minimum term not to exceed an additional ~~((two))~~ five years. The board shall review the person again not less than ninety days prior to the expiration of the new minimum term.

(c) In setting a new minimum term, the board may consider the length of time necessary for the offender to complete treatment and programming as well as other factors that relate to the offender's release under RCW 9.95.420. The board's rules shall permit an offender to petition for an earlier review if circumstances change or the board receives new information that would warrant an earlier review.

**Sec. 2.** RCW 9.95.420 and 2006 c 313 s 2 are each amended to read as follows:

(1)(a) Except as provided in (c) of this subsection, before the expiration of the minimum term, as part of the end of sentence review process under RCW 72.09.340, 72.09.345, and where appropriate, 72.09.370, the department shall conduct, and the offender shall participate in, an examination of the offender, incorporating methodologies that are recognized by experts in the prediction of sexual dangerousness, and including a prediction of the probability that the offender will engage in sex offenses if released.

(b) The board may contract for an additional, independent examination, subject to the standards in this section.

(c) If at the time the sentence is imposed by the superior court the offender's minimum term has expired or will expire within one hundred twenty days of the sentencing hearing, the department shall conduct, within ninety days of the offender's arrival at a department of corrections facility, and the offender shall participate in, an examination of the offender, incorporating methodologies that are recognized by experts in the prediction of sexual dangerousness, and including a prediction of the probability that the offender will engage in sex offenses if released.

(2) The board shall impose the conditions and instructions provided for in RCW 9.94A.720. The board shall consider the department's recommendations and may impose conditions in addition to those recommended by the department. The board may impose or modify conditions of community custody following notice to the offender.

(3)(a) Except as provided in (b) of this subsection, no later than ninety days before expiration of the minimum term, but after the board receives the results from the end of sentence review process and the recommendations for additional or modified conditions of community custody from the department, the board shall conduct a hearing to determine whether it is more likely than not that the offender will engage in sex offenses if released on conditions to be set by the board. The board may consider an offender's failure to participate in an evaluation under subsection (1) of this section in determining whether to release the offender. The board shall order the offender released, under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the offender will commit sex offenses if released. If the board does not order the offender released, the board shall establish a new minimum term ~~(= not to exceed an additional two years))~~ as provided in RCW 9.95.011.

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(b) If at the time the offender's minimum term has expired or will expire within one hundred twenty days of the offender's arrival at a department of correction's facility, then no later than one hundred twenty days after the offender's arrival at a department of corrections facility, but after the board receives the results from the end of sentence review process and the recommendations for additional or modified conditions of community custody from the department, the board shall conduct a hearing to determine whether it is more likely than not that the offender will engage in sex offenses if released on conditions to be set by the board. The board may consider an offender's failure to participate in an evaluation under subsection (1) of this section in determining whether to release the offender. The board shall order the offender released, under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the offender will commit sex offenses if released. If the board does not order the offender released, the board shall establish a new minimum term (~~(, not to exceed an additional two years)~~) as provided in RCW 9.95.011.

(4) In a hearing conducted under subsection (3) of this section, the board shall provide opportunities for the victims of any crimes for which the offender has been convicted to present oral, video, written, or in-person testimony to the board. The procedures for victim input shall be developed by rule. To facilitate victim involvement, county prosecutor's offices shall ensure that any victim impact statements and known contact information for victims of record are forwarded as part of the judgment and sentence.

**Sec. 3.** RCW 9.95.435 and 2003 c 218 s 1 are each amended to read as follows:

(1) If an offender released by the board under RCW 9.95.420 violates any condition or requirement of community custody, the board may transfer the offender to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation and subject to the limitations of subsection (2) of this section.

(2) Following the hearing specified in subsection (3) of this section, the board may impose sanctions such as work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, or any other sanctions available in the community, or may suspend the release and sanction up to sixty days' confinement in a local correctional facility for each violation, or revoke the release to community custody whenever an offender released by the board under RCW 9.95.420 violates any condition or requirement of community custody.

(3) If an offender released by the board under RCW 9.95.420 is accused of violating any condition or requirement of community custody, he or she is entitled to a hearing before the board or a designee of the board prior to the imposition of sanctions. The hearing shall be considered as offender disciplinary proceedings and shall not be subject to chapter 34.05 RCW. The board shall develop hearing procedures and a structure of graduated sanctions consistent with the hearing procedures and graduated sanctions developed pursuant to RCW 9.94A.737. The board may suspend the offender's release to community custody and confine the offender in a correctional institution owned, operated by, or operated under contract with the state prior to the hearing unless the offender has been arrested and confined for a new criminal offense.

(4) The hearing procedures required under subsection (3) of this section shall be developed by rule and include the following:

(a) Hearings shall be conducted by members or designees of the board unless the board enters into an agreement with the

department to use the hearing officers established under RCW 9.94A.737;

(b) The board shall provide the offender with ~~((written notice of the violation;))~~ findings and conclusions which include the evidence relied upon, and the reasons the particular sanction was imposed. ~~((The notice shall include a statement of the rights specified in this subsection, and the offender's))~~ The board shall notify the offender of the right to appeal the sanction and the right to file a personal restraint petition under court rules after the final decision of the board;

(c) The hearing shall be held unless waived by the offender, and shall be electronically recorded. For offenders not in total confinement, the hearing shall be held within thirty days of service of notice of the violation, but not less than twenty-four hours after notice of the violation. For offenders in total confinement, the hearing shall be held within thirty days of service of notice of the violation, but not less than twenty-four hours after notice of the violation. The board or its designee shall make a determination whether probable cause exists to believe the violation or violations occurred. The determination shall be made within forty-eight hours of receipt of the allegation;

(d) The offender shall have the right to: (i) Be present at the hearing; (ii) have the assistance of a person qualified to assist the offender in the hearing, appointed by the ~~((hearing examiner))~~ presiding hearing officer if the offender has a language or communications barrier; (iii) testify or remain silent; (iv) call witnesses and present documentary evidence; (v) question witnesses who appear and testify; and (vi) be represented by counsel if revocation of the release to community custody upon a finding of violation is a probable sanction for the violation. The board may not revoke the release to community custody of any offender who was not represented by counsel at the hearing, unless the offender has waived the right to counsel; and

(e) The sanction shall take effect if affirmed by the ~~((hearing examiner))~~ presiding hearing officer.

(5) Within seven days after the ~~((hearing examiner's))~~ presiding hearing officer's decision, the offender may appeal the decision to the full board or to a panel of three reviewing examiners designated by the chair of the board or by the chair's designee. The sanction shall be reversed or modified if a majority of the panel finds that the sanction was not reasonably related to any of the following: (a) The crime of conviction; (b) the violation committed; (c) the offender's risk of reoffending; or (d) the safety of the community.

(6) For purposes of this section, no finding of a violation of conditions may be based on unconfirmed or unconfirmable allegations.

**Sec. 4.** RCW 9.96.050 and 2002 c 16 s 3 are each amended to read as follows:

~~(1)(a) When ((a prisoner)) an offender on parole has performed all obligations of his or her release, including any and all legal financial obligations, for such time as shall satisfy the indeterminate sentence review board that his or her final release is not incompatible with the best interests of society and the welfare of the paroled individual, the board may make a final order of discharge and issue a certificate of discharge to the ((prisoner)) offender. ((The certificate of discharge shall be issued to the offender in person or by mail to the prisoner's last known address:))~~

(b) The board retains the jurisdiction to issue a certificate of discharge after the expiration of the offender's or parolee's maximum statutory sentence. If not earlier granted and any and all legal financial obligations have been paid, the board shall issue a final order of discharge three years from the date of parole unless the parolee is on suspended or revoked status at the expiration of the three years.

(c) The discharge, regardless of when issued, shall have the effect of restoring all civil rights lost by operation of law upon conviction, and the certification of discharge shall so state.

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(d) This restoration of civil rights shall not restore the right to receive, possess, own, or transport firearms.

(e) The board shall issue a certificate of discharge to the offender in person or by mail to the offender's last known address.

(2) The board shall send a copy of every signed certificate of discharge to the auditor for the county in which the offender was sentenced and to the department of corrections. The department shall create and maintain a data base containing the names of all felons who have been issued certificates of discharge, the date of discharge, and the date of conviction and offense.

((The board retains the jurisdiction to issue a certificate of discharge after the expiration of the prisoner's or parolee's maximum statutory sentence. If not earlier granted, the board shall make a final order of discharge three years from the date of parole unless the parolee is on suspended or revoked status at the expiration of the three years. Such discharge, regardless of when issued, shall have the effect of restoring all civil rights lost by operation of law upon conviction, and the certification of discharge shall so state. This restoration of civil rights shall not restore the right to receive, possess, own, or transport firearms.))

(3) The discharge provided for in this section shall be considered as a part of the sentence of the convicted person and shall not in any manner be construed as affecting the powers of the governor to pardon any such person."

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 House Bill No. 1592.

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 "offenders;" strike the remainder of the title and insert "and amending RCW 9.95.011, 9.95.420, 9.95.435, and 9.96.050."

MOTION

On motion of Senator Regala, the rules were suspended, House Bill No. 1592 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Regala spoke in favor of passage of the bill.

MOTION

On motion of Senator Delvin, Senator Carrell was excused.

MOTION

On motion of Senator Spanel, Senator Kline was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 1592 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1592 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Benton, Berkey, Brandland, 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, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Weinstein and Zarelli - 42

Excused: Senators Brown, Carrell, Hewitt, Kline, Pflug, Swecker and Tom - 7

HOUSE BILL NO. 1592 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. 1910, by House Committee on Finance (originally sponsored by Representatives Ormsby, Fromhold, Miloscia, Dunshee, Kenney, Appleton, Darneille, Hasegawa and Morrell)

Modifying property tax exemption provisions relating to new and rehabilitated multiple-unit dwellings in urban centers to provide affordable housing requirements.

The measure was read the second time.

MOTION

Senator Weinstein 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:

"Sec. 1. RCW 84.14.005 and 1995 c 375 s 1 are each amended to read as follows:

The legislature finds:

(1) That in many of Washington's urban centers there is insufficient availability of desirable and convenient residential units, including affordable housing units, to meet the needs of a growing number of the public who would live in these urban centers if these desirable, convenient, attractive, affordable, and livable places to live were available;

(2) That the development of additional and desirable residential units, including affordable housing units, in these urban centers that will attract and maintain a significant increase in the number of permanent residents in these areas will help to alleviate the detrimental conditions and social liability that tend to exist in the absence of a viable mixed income residential population and will help to achieve the planning goals mandated by the growth management act under RCW 36.70A.020; and

(3) That planning solutions to solve the problems of urban sprawl often lack incentive and implementation techniques needed to encourage residential redevelopment in those urban centers lacking a sufficient variety of residential opportunities, and it is in the public interest and will benefit, provide, and promote the public health, safety, and welfare to stimulate new or enhanced residential opportunities, including affordable housing opportunities, within urban centers through a tax incentive as provided by this chapter.

Sec. 2. RCW 84.14.007 and 1995 c 375 s 2 are each amended to read as follows:

It is the purpose of this chapter to encourage increased residential opportunities, including affordable housing opportunities, in cities that are required to plan or choose to plan under the growth management act within urban centers where the ((legislative body)) governing authority of the affected city has found there is insufficient housing opportunities, including affordable housing opportunities. It is further the purpose of this chapter to stimulate the construction of new multifamily

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housing and the rehabilitation of existing vacant and underutilized buildings for multifamily housing in urban centers having insufficient housing opportunities that will increase and improve residential opportunities, including affordable housing opportunities, within these urban centers. To achieve these purposes, this chapter provides for special valuations in residentially deficient urban centers for eligible improvements associated with multiunit housing (~~in residentially deficient urban centers~~), which includes affordable housing.

Sec. 3. RCW 84.14.010 and 2002 c 146 s 1 are each amended to read as follows:

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

(1) "City" means either (a) a city or town with a population of at least ~~(thirty)~~ fifteen thousand ~~(or)~~ located in a county planning under the growth management act, (b) the largest city or town, if there is no city or town with a population of at least ~~(thirty)~~ fifteen thousand, located in a county planning under the growth management act, or (c) a city or town with a population of at least five thousand located in a county subject to the provisions of RCW 36.70A.215.

(2) "Affordable housing" means residential housing that is rented by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed thirty percent of the household's monthly income. For the purposes of housing intended for owner occupancy, "affordable housing" means residential housing that is within the means of low or moderate-income households.

(3) "Household" means a single person, family, or unrelated persons living together.

(4) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below eighty percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States department of housing and urban development. For cities located in high-cost areas, "low-income household" means a household that has an income at or below one hundred percent of the median family income adjusted for family size, for the county where the project is located.

(5) "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is more than eighty percent but is at or below one hundred fifteen percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States department of housing and urban development. For cities located in high-cost areas, "moderate-income household" means a household that has an income that is more than one hundred percent, but at or below one hundred fifty percent, of the median family income adjusted for family size, for the county where the project is located.

(6) "High cost area" means a county where the third quarter median house price for the previous year as reported by the Washington center for real estate research at Washington State University is equal to or greater than one hundred thirty percent of the statewide median house price published during the same time period.

(7) "Governing authority" means the local legislative authority of a city having jurisdiction over the property for which an exemption may be applied for under this chapter.

~~(8)~~ (8) "Growth management act" means chapter 36.70A RCW.

~~(9)~~ (9) "Multiple-unit housing" means a building having four or more dwelling units not designed or used as transient accommodations and not including hotels and motels. Multifamily units may result from new construction or rehabilitated or conversion of vacant, underutilized, or substandard buildings to multifamily housing.

~~(10)~~ (10) "Owner" means the property owner of record.

~~(11)~~ (11) "Permanent residential occupancy" means multiunit housing that provides either rental or owner occupancy on a nontransient basis. This includes owner-

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occupied or rental accommodation that is leased for a period of at least one month. This excludes hotels and motels that predominately offer rental accommodation on a daily or weekly basis.

~~(12)~~ (12) "Rehabilitation improvements" means modifications to existing structures, that are vacant for twelve months or longer, that are made to achieve a condition of substantial compliance with existing building codes or modification to existing occupied structures which increase the number of multifamily housing units.

~~(13)~~ (13) "Residential targeted area" means an area within an urban center that has been designated by the governing authority as a residential targeted area in accordance with this chapter.

~~(14)~~ (14) "Substantial compliance" means compliance with local building or housing code requirements that are typically required for rehabilitation as opposed to new construction.

~~(15)~~ (15) "Urban center" means a compact identifiable district where urban residents may obtain a variety of products and services. An urban center must contain:

(a) Several existing or previous, or both, business establishments that may include but are not limited to shops, offices, banks, restaurants, governmental agencies;

(b) Adequate public facilities including streets, sidewalks, lighting, transit, domestic water, and sanitary sewer systems; and

(c) A mixture of uses and activities that may include housing, recreation, and cultural activities in association with either commercial or office, or both, use.

Sec. 4. RCW 84.14.020 and 2002 c 146 s 2 are each amended to read as follows:

(1)(a) The value of new housing construction, conversion, and rehabilitation improvements qualifying under this chapter is exempt from ad valorem property taxation, as follows:

(i) For ~~(ten)~~ eight successive years beginning January 1 of the year immediately following the calendar year of issuance of the certificate of tax exemption eligibility (~~— However, the exemption does not include the value of land or nonhousing-related improvements not qualifying under this chapter~~); and

(ii) For an additional four years if the property qualifies for an extended period under subsection (2) of this section.

(b) The exemptions provided in (a)(i) and (ii) of this subsection do not include the value of land or nonhousing-related improvements not qualifying under this chapter.

(2) In order for property to qualify for an extended exemption period under subsection (1)(a)(ii) of this section, the applicant must commit to renting or selling at least twenty percent of the multifamily housing units as affordable housing units to low and moderate-income households, and the property must satisfy that commitment and any additional affordability and income eligibility conditions adopted by the local government under this chapter. In the case of projects intended exclusively for owner occupancy, the minimum requirement of this subsection (2) may be satisfied solely through housing affordable to moderate-income households.

(3) When a local government adopts guidelines pursuant to RCW 84.14.030(2) and ~~(the qualifying dwelling units are each on separate parcels for the purpose of property taxation)~~ includes conditions that must be satisfied with respect to individual dwelling units, rather than with respect to the multiple-unit housing as a whole or some minimum portion thereof, the exemption ~~(may, at the local government's discretion, be)~~ is limited to the value of the qualifying improvements allocable to those dwelling units that meet the local guidelines. However, if specific units are identified to satisfy income eligibility limits or limits on rents or sale prices that apply to a percentage of all units under local guidelines, the exemption may still apply to the multiple-unit housing as a whole.

~~(4)~~ (4) In the case of rehabilitation of existing buildings, the exemption does not include the value of improvements

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constructed prior to the submission of the application required under this chapter. The incentive provided by this chapter is in addition to any other incentives, tax credits, grants, or other incentives provided by law.

~~((3))~~ (5) This chapter does not apply to increases in assessed valuation made by the assessor on nonqualifying portions of building and value of land nor to increases made by lawful order of a county board of equalization, the department of revenue, or a county, to a class of property throughout the county or specific area of the county to achieve the uniformity of assessment or appraisal required by law.

~~((4))~~ (6) At the conclusion of the ~~((ten-year))~~ exemption period, the new or rehabilitated housing cost shall be considered as new construction for the purposes of chapter 84.55 RCW.

**Sec. 5.** RCW 84.14.030 and 2005 c 80 s 1 are each amended to read as follows:

An owner of property making application under this chapter must meet the following requirements:

(1) The new or rehabilitated multiple-unit housing must be located in a residential targeted area as designated by the city;

(2) The multiple-unit housing must meet ~~((the))~~ guidelines as adopted by the governing authority that may include height, density, public benefit features, number and size of proposed development, parking, ~~((low-income or moderate-))~~ income limits for occupancy ~~((requirements)), limits on rents or sale prices,~~ and other adopted requirements indicated necessary by the city. The required amenities should be relative to the size of the project and tax benefit to be obtained;

(3) The new, converted, or rehabilitated multiple-unit housing must provide for a minimum of fifty percent of the space for permanent residential occupancy. In the case of existing occupied multifamily development, the multifamily housing must also provide for a minimum of four additional multifamily units. Existing multifamily vacant housing that has been vacant for twelve months or more does not have to provide additional multifamily units;

(4) New construction multifamily housing and rehabilitation improvements must be completed within three years from the date of approval of the application;

(5) Property proposed to be rehabilitated must fail to comply with one or more standards of the applicable state or local building or housing codes on or after July 23, 1995. If the property proposed to be rehabilitated is not vacant, an applicant shall provide each existing tenant housing of comparable size, quality, and price and a reasonable opportunity to relocate; and

(6) The applicant must enter into a contract with the city approved by the governing ~~((body))~~ authority, or an administrative official or commission authorized by the governing authority, under which the applicant has agreed to the implementation of the development on terms and conditions satisfactory to the governing authority.

**Sec. 6.** RCW 84.14.040 and 1995 c 375 s 7 are each amended to read as follows:

(1) The following criteria must be met before an area may be designated as a residential targeted area:

(a) The area must be within an urban center, as determined by the governing authority;

(b) The area must lack, as determined by the governing authority, sufficient available, desirable, and convenient residential housing, including affordable housing, to meet the needs of the public who would be likely to live in the urban center, if the affordable, desirable, attractive, and livable places to live were available; and

(c) The providing of additional housing opportunity, including affordable housing, in the area, as determined by the governing authority, will assist in achieving one or more of the stated purposes of this chapter.

(2) For the purpose of designating a residential targeted area or areas, the governing authority may adopt a resolution of intention to so designate an area as generally described in the resolution. The resolution must state the time and place of a

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hearing to be held by the governing authority to consider the designation of the area and may include such other information pertaining to the designation of the area as the governing authority determines to be appropriate to apprise the public of the action intended.

(3) The governing authority shall give notice of a hearing held under this chapter by publication of the notice once each week for two consecutive weeks, not less than seven days, nor more than thirty days before the date of the hearing in a paper having a general circulation in the city where the proposed residential targeted area is located. The notice must state the time, date, place, and purpose of the hearing and generally identify the area proposed to be designated as a residential targeted area.

(4) Following the hearing, or a continuance of the hearing, the governing authority may designate all or a portion of the area described in the resolution of intent as a residential targeted area if it finds, in its sole discretion, that the criteria in subsections (1) through (3) of this section have been met.

(5) After designation of a residential targeted area, the governing authority ~~((shall))~~ must adopt and implement standards and guidelines to be utilized in considering applications and making the determinations required under RCW 84.14.060. The standards and guidelines must establish basic requirements for both new construction and rehabilitation ((including)), which must include:

(a) Application process and procedures((-These guidelines may include the following-));

~~((a))~~ (b) Requirements that address demolition of existing structures and site utilization; and

~~((b))~~ (c) Building requirements that may include elements addressing parking, height, density, environmental impact, and compatibility with the existing surrounding property and such other amenities as will attract and keep permanent residents and that will properly enhance the livability of the residential targeted area in which they are to be located.

(6) The governing authority may adopt and implement, either as conditions to eight-year exemptions or as conditions to an extended exemption period under RCW 84.14.020(2), or both, more stringent income eligibility, rent, or sale price limits, including limits that apply to a higher percentage of units, than the minimum conditions for an extended exemption period under RCW 84.14.020(2).

**Sec. 7.** RCW 84.14.050 and 1999 c 132 s 2 are each amended to read as follows:

An owner of property seeking tax incentives under this chapter must complete the following procedures:

(1) In the case of rehabilitation or where demolition or new construction is required, the owner shall secure from the governing authority or duly authorized ~~((agent))~~ representative, before commencement of rehabilitation improvements or new construction, verification of property noncompliance with applicable building and housing codes;

(2) In the case of new and rehabilitated multifamily housing, the owner shall apply to the city on forms adopted by the governing authority. The application must contain the following:

(a) Information setting forth the grounds supporting the requested exemption including information indicated on the application form or in the guidelines;

(b) A description of the project and site plan, including the floor plan of units and other information requested;

(c) A statement that the applicant is aware of the potential tax liability involved when the property ceases to be eligible for the incentive provided under this chapter;

(3) The applicant must verify the application by oath or affirmation; and

(4) The application must be accompanied by the application fee, if any, required under RCW 84.14.080. The governing authority may permit the applicant to revise an application before final action by the governing authority.

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**Sec. 8.** RCW 84.14.060 and 1995 c 375 s 9 are each amended to read as follows:

The duly authorized administrative official or committee of the city may approve the application if it finds that:

(1) A minimum of four new units are being constructed or in the case of occupied rehabilitation or conversion a minimum of four additional multifamily units are being developed;

(2) If applicable, the proposed multiunit housing project meets the affordable housing requirements as described in RCW 84.14.020;

(3) The proposed project is or will be, at the time of completion, in conformance with all local plans and regulations that apply at the time the application is approved;

~~((3))~~ (4) The owner has complied with all standards and guidelines adopted by the city under this chapter; and

~~((4))~~ (5) The site is located in a residential targeted area of an urban center that has been designated by the governing authority in accordance with procedures and guidelines indicated in RCW 84.14.040.

**Sec. 9.** RCW 84.14.090 and 1995 c 375 s 12 are each amended to read as follows:

(1) Upon completion of rehabilitation or new construction for which an application for a limited tax exemption under this chapter has been approved and after issuance of the certificate of occupancy, the owner shall file with the city the following:

(a) A statement of the amount of rehabilitation or construction expenditures made with respect to each housing unit and the composite expenditures made in the rehabilitation or construction of the entire property;

(b) A description of the work that has been completed and a statement that the rehabilitation improvements or new construction on the owner's property qualify the property for limited exemption under this chapter; ~~(and)~~

(c) If applicable, a statement that the project meets the affordable housing requirements as described in RCW 84.14.020; and

~~(d) A statement that the work has been completed within three years of the issuance of the conditional certificate of tax exemption.~~

(2) Within thirty days after receipt of the statements required under subsection (1) of this section, the authorized representative of the city shall determine whether the work completed, and the affordability of the units, is consistent with the application and the contract approved by the ~~((governing authority))~~ city and is qualified for a limited tax exemption under this chapter. The city shall also determine which specific improvements completed meet the requirements and required findings.

(3) If the rehabilitation, conversion, or construction is completed within three years of the date the application for a limited tax exemption is filed under this chapter, or within an authorized extension of this time limit, and the authorized representative of the city determines that improvements were constructed consistent with the application and other applicable requirements, including if applicable, affordable housing requirements, and the owner's property is qualified for a limited tax exemption under this chapter, the city shall file the certificate of tax exemption with the county assessor within ten days of the expiration of the thirty-day period provided under subsection (2) of this section.

(4) The authorized representative of the city shall notify the applicant that a certificate of tax exemption is not going to be filed if the authorized representative determines that:

(a) The rehabilitation or new construction was not completed within three years of the application date, or within any authorized extension of the time limit;

(b) The improvements were not constructed consistent with the application or other applicable requirements; ~~((or))~~

(c) If applicable, the affordable housing requirements as described in RCW 84.14.020 were not met; or

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~~(d) The owner's property is otherwise not qualified for limited exemption under this chapter.~~

(5) If the authorized representative of the city finds that construction or rehabilitation of multiple-unit housing was not completed within the required time period due to circumstances beyond the control of the owner and that the owner has been acting and could reasonably be expected to act in good faith and with due diligence, the governing authority or the city official authorized by the governing authority may extend the deadline for completion of construction or rehabilitation for a period not to exceed twenty-four consecutive months.

(6) The governing authority may provide by ordinance for an appeal of a decision by the deciding officer or authority that an owner is not entitled to a certificate of tax exemption to the governing authority, a hearing examiner, or other city officer authorized by the governing authority to hear the appeal in accordance with such reasonable procedures and time periods as provided by ordinance of the governing authority. The owner may appeal a decision by the deciding officer or authority that is not subject to local appeal or a decision by the local appeal authority that the owner is not entitled to a certificate of tax exemption in superior court under RCW 34.05.510 through 34.05.598, if the appeal is filed within thirty days of notification by the city to the owner of the decision being challenged.

**Sec. 10.** RCW 84.14.100 and 1995 c 375 s 13 are each amended to read as follows:

(1) Thirty days after the anniversary of the date of the certificate of tax exemption and each year for ~~((a period of ten years))~~ the tax exemption period, the owner of the rehabilitated or newly constructed property shall file with a designated ~~((agent))~~ authorized representative of the city an annual report indicating the following:

~~((1))~~ (a) A statement of occupancy and vacancy of the rehabilitated or newly constructed property during the twelve months ending with the anniversary date;

~~((2))~~ (b) A certification by the owner that the property has not changed use and, if applicable, that the property has been in compliance with the affordable housing requirements as described in RCW 84.14.020 since the date of the certificate approved by the city; ~~(and)~~

~~((3))~~ (c) A description of changes or improvements constructed after issuance of the certificate of tax exemption; and

(d) Any additional information requested by the city in regards to the units receiving a tax exemption.

(2) All cities, which issue certificates of tax exemption for multiunit housing that conform to the requirements of this chapter, shall report annually by December 31st of each year, beginning in 2007, to the department of community, trade, and economic development. The report must include the following information:

(a) The number of tax exemption certificates granted;

(b) The total number and type of units produced or to be produced;

(c) The number and type of units produced or to be produced meeting affordable housing requirements;

(d) The actual development cost of each unit produced;

(e) The total monthly rent or total sale amount of each unit produced;

(f) The income of each renter household at the time of initial occupancy and the income of each initial purchaser of owner-occupied units at the time of purchase for each of the units receiving a tax exemption and a summary of these figures for the city; and

(g) The value of the tax exemption for each project receiving a tax exemption and the total value of tax exemptions granted.

**Sec. 11.** RCW 84.14.110 and 2002 c 146 s 3 are each amended to read as follows:

(1) If improvements have been exempted under this chapter, the improvements continue to be exempted ~~((and))~~ for the applicable period under RCW 84.14.020, so long as they are not



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~~((be)) converted to another use ((for at least ten years from date of issuance of the certificate of tax exemption)) and continue to satisfy all applicable conditions. If the owner intends to convert the multifamily development to another use, or if applicable, if the owner intends to discontinue compliance with the affordable housing requirements as described in RCW 84.14.020 or any other condition to exemption, the owner shall notify the assessor within sixty days of the change in use or intended discontinuance. If, after a certificate of tax exemption has been filed with the county assessor, the ((city or assessor or agent)) authorized representative of the governing authority discovers that a portion of the property is changed or will be changed to a use that is other than residential or that housing or amenities no longer meet the requirements, including, if applicable, affordable housing requirements, as previously approved or agreed upon by contract between the ((governing authority)) city and the owner and that the multifamily housing, or a portion of the housing, no longer qualifies for the exemption, the tax exemption must be canceled and the following must occur:~~

(a) Additional real property tax must be imposed upon the value of the nonqualifying improvements in the amount that would normally be imposed, plus a penalty must be imposed amounting to twenty percent. This additional tax is calculated based upon the difference between the property tax paid and the property tax that would have been paid if it had included the value of the nonqualifying improvements dated back to the date that the improvements were converted to a nonmultifamily use;

(b) The tax must include interest upon the amounts of the additional tax at the same statutory rate charged on delinquent property taxes from the dates on which the additional tax could have been paid without penalty if the improvements had been assessed at a value without regard to this chapter; and

(c) The additional tax owed together with interest and penalty must become a lien on the land and attach at the time the property or portion of the property is removed from multifamily use or the amenities no longer meet applicable requirements, and has priority to and must be fully paid and satisfied before a recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the land may become charged or liable. The lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes. An additional tax unpaid on its due date is delinquent. From the date of delinquency until paid, interest must be charged at the same rate applied by law to delinquent ad valorem property taxes.

(2) Upon a determination that a tax exemption is to be canceled for a reason stated in this section, the governing authority or authorized representative shall notify the record owner of the property as shown by the tax rolls by mail, return receipt requested, of the determination to cancel the exemption. The owner may appeal the determination to the governing authority or authorized representative, within thirty days by filing a notice of appeal with the clerk of the governing authority, which notice must specify the factual and legal basis on which the determination of cancellation is alleged to be erroneous. The governing authority or a hearing examiner or other official authorized by the governing authority may hear the appeal. At the hearing, all affected parties may be heard and all competent evidence received. After the hearing, the deciding body or officer shall either affirm, modify, or repeal the decision of cancellation of exemption based on the evidence received. An aggrieved party may appeal the decision of the deciding body or officer to the superior court under RCW 34.05.510 through 34.05.598.

(3) Upon determination by the governing authority or authorized representative to terminate an exemption, the county officials having possession of the assessment and tax rolls shall correct the rolls in the manner provided for omitted property under RCW 84.40.080. The county assessor shall make such a valuation of the property and improvements as is necessary to

permit the correction of the rolls. The value of the new housing construction, conversion, and rehabilitation improvements added to the rolls shall be considered as new construction for the purposes of chapter 84.55 RCW. The owner may appeal the valuation to the county board of equalization under chapter 84.48 RCW and according to the provisions of RCW 84.40.038. If there has been a failure to comply with this chapter, the property must be listed as an omitted assessment for assessment years beginning January 1 of the calendar year in which the noncompliance first occurred, but the listing as an omitted assessment may not be for a period more than three calendar years preceding the year in which the failure to comply was discovered.

**NEW SECTION. Sec. 12.** This act is applicable only to applications for tax exemption certificates submitted under chapter 84.14 RCW after the effective date of this act, except that any previously adopted local government requirements or conditions that are consistent with chapter 84.14 RCW as amended by this act are ratified by this act.

**NEW SECTION. Sec. 13.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

#### MOTION

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

On page 2, beginning on line 22 of the amendment, strike "located in a county planning under the growth management act"

On page 4, line 28 of the amendment, after "For" strike "~~((ten)) eight~~" and insert "properties for which applications for certificates of tax exemption eligibility are submitted under chapter 84.14 RCW before the effective date of this act, the value is exempt for ten"

On page 4, line 30 of the amendment, after "certificate" strike "of tax exemption eligibility((" and insert "~~((of tax exemption eligibility~~"

On page 4, beginning on line 33 of the amendment, strike all of subsection (1)(a)(ii) and insert the following:

(ii) For properties for which applications for certificates of tax exemption eligibility are submitted under chapter 84.14 RCW on or after the effective date of this act, the value is exempt:

(A) For eight successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate; or

(B) For twelve successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate, if the property otherwise qualifies for the exemption under chapter 84.14 RCW and meets the conditions in this subsection (1)(a)(ii)(B). For the property to qualify for the twelve-year exemption under this subsection, the applicant must commit to renting or selling at least twenty percent of the multifamily housing units as affordable housing units to low and moderate-income households, and the property must satisfy that commitment and any additional affordability and income eligibility conditions adopted by the local government under this chapter. In the case of projects intended exclusively for owner occupancy, the minimum requirement of this subsection (1)(a)(ii)(B) may be satisfied solely through housing affordable to moderate-income households."

On page 5, beginning on line 1 of the amendment, strike all of subsection (2)

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

On page 5, beginning on line 16 of the amendment, after "exemption" strike all material through "is" on line 17 and insert "may, at the local government's discretion, be"

On page 5, beginning on line 19 of the amendment, strike all

material through "whole," on line 22

On page 14, beginning on line 31 of the amendment, strike all of section 12

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Weinstein on page 2, line 22 to the committee striking amendment to Engrossed Second Substitute House Bill No. 1910.

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means as amended to Engrossed Second Substitute House Bill No. 1910.

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

#### MOTION

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

On page 1, line 2 of the title, after "housing;" strike the remainder of the title and insert "amending RCW 84.14.005, 84.14.007, 84.14.010, 84.14.020, 84.14.030, 84.14.040, 84.14.050, 84.14.060, 84.14.090, 84.14.100, and 84.14.110; creating a new section; and declaring an emergency."

#### MOTION

On motion of Senator Weinstein, the rules were suspended, Engrossed Second Substitute House Bill No. 1910 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 Weinstein spoke in favor of passage of the bill.

Senator Honeyford spoke on passage of the bill.

#### MOTION

On motion of Senator Regala, Senator Fairley was excused.

#### POINT OF INQUIRY

Senator Sheldon: "Would Senator Weinstein yield to a question? If this just applies within city limits or does it apply as well in urban growth areas?"

Senator Weinstein: "Well, the result of the amendment reestablishes the authorities of cities and counties not planning under the growth management act to offer the multi unit housing tax exemption program. They need certain minimum population requirements."

Senator Sheldon: "Well, I don't think the amendment answers that question. My question is, Senator Weinstein, if you'll yield. Does the tax exemption apply only within city limits or does it apply within urban growth areas as well?"

Senator Weinstein: "Only within city limits."

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1910 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1910 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 41; Nays, 2; Absent, 0; Excused, 6.

Voting yea: Senators Benton, Berkey, Carrell, Clements, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, 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, Weinstein and Zarelli - 41

Voting nay: Senators Brandland and Holmquist - 2

Excused: Senators Brown, Fairley, Hewitt, Kline, Swecker and Tom - 6

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1910 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2262, by House Committee on Appropriations (originally sponsored by Representatives Barlow, McCoy, Hunter, Seaquist, Eddy, Fromhold, Ormsby, Sells and Morrell)

Providing salary bonuses for individuals certified by the national board for professional teaching standards.

The measure was read the second time.

#### MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds and declares:

(1) The national board for professional teaching standards has established high and rigorous standards for what highly accomplished teachers should know and be able to do in order to increase student learning results;

(2) The national board certifies teachers who meet these standards through a rigorous, performance-based assessment process;

(3) A certificate awarded by the national board attests that a teacher has met high and rigorous standards and has demonstrated the ability to make sound professional judgments about how to best meet students' learning needs and effectively help students meet challenging academic standards; and

(4) Teachers who attain national board certification should be acknowledged and rewarded in order to encourage more teachers to pursue certification for the benefit of Washington students.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.405 RCW to read as follows:

(1) Certificated instructional staff who have attained certification from the national board for professional teaching standards shall receive a bonus each year in which they maintain the certification. The bonus shall be calculated as follows: The annual bonus shall be five thousand dollars in the 2007-08

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school year. Thereafter, the annual bonus shall increase by inflation.

(2) Certificated instructional staff who have attained certification from the national board for professional teaching standards shall be eligible for bonuses in addition to that provided by subsection (1) of this section if the individual is in an instructional assignment in a school in which at least seventy percent of the students qualify for the free and reduced-price lunch program.

(3) The amount of the additional bonus under subsection (2) of this section for those meeting the qualifications of subsection (2) of this section is five thousand dollars.

(4) The bonuses provided under this section are in addition to compensation received under a district's salary schedule adopted in accordance with RCW 28A.405.200 and shall not be included in calculations of a district's average salary and associated salary limitations under RCW 28A.400.200.

(5) The bonuses provided under this section shall be paid in a lump sum amount and shall not be included in the definition of "earnable compensation" under RCW 41.32.010(10).

**Sec. 3.** RCW 41.32.010 and 2005 c 131 s 8 and 2005 c 23 s 1 are each reenacted and amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1)(a) "Accumulated contributions" for plan 1 members, means the sum of all regular annuity contributions and, except for the purpose of withdrawal at the time of retirement, any amount paid under RCW 41.50.165(2) with regular interest thereon.

(b) "Accumulated contributions" for plan 2 members, means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality tables and regulations as shall be adopted by the director and regular interest.

(3) "Annuity" means the moneys payable per year during life by reason of accumulated contributions of a member.

(4) "Member reserve" means the fund in which all of the accumulated contributions of members are held.

(5)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter.

(b) "Beneficiary" for plan 2 and plan 3 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(6) "Contract" means any agreement for service and compensation between a member and an employer.

(7) "Creditable service" means membership service plus prior service for which credit is allowable. This subsection shall apply only to plan 1 members.

(8) "Dependent" means receiving one-half or more of support from a member.

(9) "Disability allowance" means monthly payments during disability. This subsection shall apply only to plan 1 members.

(10)(a) "Earnable compensation" for plan 1 members, means:

(i) All salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all cases where compensation includes maintenance the employer shall fix the value of that part of the compensation not paid in money.

(ii) For an employee member of the retirement system teaching in an extended school year program, two consecutive extended school years, as defined by the employer school district, may be used as the annual period for determining earnable compensation in lieu of the two fiscal years.

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(iii) "Earnable compensation" for plan 1 members also includes the following actual or imputed payments, which are not paid for personal services:

(A) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation and the individual shall receive the equivalent service credit.

(B) If a leave of absence, without pay, is taken by a member for the purpose of serving as a member of the state legislature, and such member has served in the legislature five or more years, the salary which would have been received for the position from which the leave of absence was taken shall be considered as compensation earnable if the employee's contribution thereon is paid by the employee. In addition, where a member has been a member of the state legislature for five or more years, earnable compensation for the member's two highest compensated consecutive years of service shall include a sum not to exceed thirty-six hundred dollars for each of such two consecutive years, regardless of whether or not legislative service was rendered during those two years.

(iv) For members employed less than full time under written contract with a school district, or community college district, in an instructional position, for which the member receives service credit of less than one year in all of the years used to determine the earnable compensation used for computing benefits due under RCW 41.32.497, 41.32.498, and 41.32.520, the member may elect to have earnable compensation defined as provided in RCW 41.32.345. For the purposes of this subsection, the term "instructional position" means a position in which more than seventy-five percent of the member's time is spent as a classroom instructor (including office hours), a librarian, a psychologist, a social worker, a nurse, a physical therapist, an occupational therapist, a speech language pathologist or audiologist, or a counselor. Earnable compensation shall be so defined only for the purpose of the calculation of retirement benefits and only as necessary to insure that members who receive fractional service credit under RCW 41.32.270 receive benefits proportional to those received by members who have received full-time service credit.

(v) "Earnable compensation" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041;

(C) Bonuses for certification from the national board for professional teaching standards authorized under section 2 of this act.

(b) "Earnable compensation" for plan 2 and plan 3 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, bonuses for certification from the national board for professional teaching standards authorized under section 2 of this act, or any form of severance pay.

"Earnable compensation" for plan 2 and plan 3 members also includes the following actual or imputed payments which, except in the case of (b)(ii)(B) of this subsection, are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation, to the extent

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provided above, and the individual shall receive the equivalent service credit.

(ii) In any year in which a member serves in the legislature the member shall have the option of having such member's earnable compensation be the greater of:

(A) The earnable compensation the member would have received had such member not served in the legislature; or

(B) Such member's actual earnable compensation received for teaching and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions.

(11) "Employer" means the state of Washington, the school district, or any agency of the state of Washington by which the member is paid.

(12) "Fiscal year" means a year which begins July 1st and ends June 30th of the following year.

(13) "Former state fund" means the state retirement fund in operation for teachers under chapter 187, Laws of 1923, as amended.

(14) "Local fund" means any of the local retirement funds for teachers operated in any school district in accordance with the provisions of chapter 163, Laws of 1917 as amended.

(15) "Member" means any teacher included in the membership of the retirement system who has not been removed from membership under RCW 41.32.878 or 41.32.768. Also, any other employee of the public schools who, on July 1, 1947, had not elected to be exempt from membership and who, prior to that date, had by an authorized payroll deduction, contributed to the member reserve.

(16) "Membership service" means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system: PROVIDED, That where a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered. The provisions of this subsection shall apply only to plan 1 members.

(17) "Pension" means the moneys payable per year during life from the pension reserve.

(18) "Pension reserve" is a fund in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system and from which all pension obligations are to be paid.

(19) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable. The provisions of this subsection shall apply only to plan 1 members.

(20) "Prior service contributions" means contributions made by a member to secure credit for prior service. The provisions of this subsection shall apply only to plan 1 members.

(21) "Public school" means any institution or activity operated by the state of Washington or any instrumentality or political subdivision thereof employing teachers, except the University of Washington and Washington State University.

(22) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to the member's individual account in the member reserve. This subsection shall apply only to plan 1 members.

(23) "Regular interest" means such rate as the director may determine.

(24)(a) "Retirement allowance" for plan 1 members, means monthly payments based on the sum of annuity and pension, or any optional benefits payable in lieu thereof.

(b) "Retirement allowance" for plan 2 and plan 3 members, means monthly payments to a retiree or beneficiary as provided in this chapter.

(25) "Retirement system" means the Washington state teachers' retirement system.

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(26)(a) "Service" for plan 1 members means the time during which a member has been employed by an employer for compensation.

(i) If a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered.

(ii) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(iii) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(b) "Service" for plan 2 and plan 3 members, means periods of employment by a member for one or more employers for which earnable compensation is earned subject to the following conditions:

(i) A member employed in an eligible position or as a substitute shall receive one service credit month for each month of September through August of the following year if he or she earns earnable compensation for eight hundred ten or more hours during that period and is employed during nine of those months, except that a member may not receive credit for any period prior to the member's employment in an eligible position except as provided in RCW 41.32.812 and 41.50.132;

(ii) If a member is employed either in an eligible position or as a substitute teacher for nine months of the twelve month period between September through August of the following year but earns earnable compensation for less than eight hundred ten hours but for at least six hundred thirty hours, he or she will receive one-half of a service credit month for each month of the twelve month period;

(iii) All other members in an eligible position or as a substitute teacher shall receive service credit as follows:

(A) A service credit month is earned in those calendar months where earnable compensation is earned for ninety or more hours;

(B) A half-service credit month is earned in those calendar months where earnable compensation is earned for at least seventy hours but less than ninety hours; and

(C) A quarter-service credit month is earned in those calendar months where earnable compensation is earned for less than seventy hours.

(iv) Any person who is a member of the teachers' retirement system and who is elected or appointed to a state elective position may continue to be a member of the retirement system and continue to receive a service credit month for each of the months in a state elective position by making the required member contributions.

(v) When an individual is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service for ninety or more hours is rendered.

(vi) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470. For purposes of plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

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(vii) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(viii) The department shall adopt rules implementing this subsection.

(27) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(28) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(29) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity. The term includes state, educational service district, and school district superintendents and their assistants and all employees certificated by the superintendent of public instruction; and in addition thereto any full time school doctor who is employed by a public school and renders service of an instructional or educational nature.

(30) "Average final compensation" for plan 2 and plan 3 members, means the member's average earnable compensation of the highest consecutive sixty service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.32.810(2).

(31) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

(32) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(33) "Director" means the director of the department.

(34) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(35) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(36) "Substitute teacher" means:

(a) A teacher who is hired by an employer to work as a temporary teacher, except for teachers who are annual contract employees of an employer and are guaranteed a minimum number of hours; or

(b) Teachers who either (i) work in ineligible positions for more than one employer or (ii) work in an ineligible position or positions together with an eligible position.

(37)(a) "Eligible position" for plan 2 members from June 7, 1990, through September 1, 1991, means a position which normally requires two or more uninterrupted months of creditable service during September through August of the following year.

(b) "Eligible position" for plan 2 and plan 3 on and after September 1, 1991, means a position that, as defined by the employer, normally requires five or more months of at least seventy hours of earnable compensation during September through August of the following year.

(c) For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position.

(d) The elected position of the superintendent of public instruction is an eligible position.

(38) "Plan 1" means the teachers' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(39) "Plan 2" means the teachers' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977, and prior to July 1, 1996.

(40) "Plan 3" means the teachers' retirement system, plan 3 providing the benefits and funding provisions covering persons

who first become members of the system on and after July 1, 1996, or who transfer under RCW 41.32.817.

(41) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items compiled by the bureau of labor statistics, United States department of labor.

(42) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(43) "Index B" means the index for the year prior to index A.

(44) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(45) "Adjustment ratio" means the value of index A divided by index B.

(46) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(47) "Member account" or "member's account" for purposes of plan 3 means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan 3.

(48) "Separation from service or employment" occurs when a person has terminated all employment with an employer.

(49) "Employed" or "employee" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law."

MOTION

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

On page 2, after "program." on line 3, insert "Such bonus shall be awarded following a school year in which the office of superintendent of public instruction determines that the individual's teaching has resulted in improved student performance. The Washington Institute for Public Policy, in consultation with the office of superintendent of public instruction, shall develop objective assessment criteria necessary for making this determination."

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

Senator McAuliffe spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Zarelli on page 2, line 3 to the committee striking amendment to Second Substitute House Bill No. 2262.

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Early Learning & K-12 Education to Second Substitute House Bill No. 2262.

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

MOTION

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

On page 1, line 2 of the title, after "standards;" strike the remainder of the title and insert "reenacting and amending RCW 41.32.010; adding a new section to chapter 28A.405 RCW; and creating a new section."

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## MOTION

On motion of Senator McAuliffe, the rules were suspended, Second Substitute House Bill No. 2262 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe, Holmquist, Zarelli and Clements spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2262 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2262 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators 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, Weinstein and Zarelli - 45

Excused: Senators Brown, Hewitt, Swecker and Tom - 4

SECOND SUBSTITUTE HOUSE BILL NO. 2262 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.

## REMARKS BY THE PRESIDENT

President Owen: "The President would like to note to the members of the Senate today that you have set a new record. Six different times people have approached the bar either by, directly approaching the bar, or signaling from the sides on both sides, this last bill, to get members off the rostrum to assist you. You have a rule that strictly prohibits approaching the bar during the vote. The President would appreciate it if you would adhere to that rule. Thank you."

## PARLIAMENTARY INQUIRY

Senator Delvin: "Do you take phone calls up on the daises?"

## SECOND READING

HOUSE BILL NO. 1344, by Representatives Lovick, Rodne, Hudgins, Upthegrove and Campbell

Providing a window tint exemption for law enforcement vehicles.

The measure was read the second time.

## MOTION

On motion of Senator Murray, the rules were suspended, House Bill No. 1344 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1344.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1344 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, 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, Weinstein and Zarelli - 46

Excused: Senators Hewitt, Swecker and Tom - 3

HOUSE BILL NO. 1344, 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. 1077, by Representatives Blake and Kretz

Modifying requirements concerning the public disclosure of sensitive fish and wildlife information.

The measure was read the second time.

## MOTION

Senator Jacobsen moved that the following committee striking amendment by the Committee on Natural Resources, Ocean & Recreation be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 42.56.430 and 2005 c 274 s 423 are each amended to read as follows:

The following information relating to fish and wildlife is exempt from disclosure under this chapter:

(1) Commercial fishing catch data from logbooks required to be provided to the department of fish and wildlife under RCW 77.12.047, when the data identifies specific catch location, timing, or methodology and the release of which would result in unfair competitive disadvantage to the commercial fisher providing the catch data, however, this information may be released to government agencies concerned with the management of fish and wildlife resources;

(2) Sensitive fish and wildlife data ((obtained)). Sensitive fish and wildlife data may be released to the following entities and their agents for fish, wildlife, land management purposes, or scientific research needs: Government agencies, public utilities, and accredited colleges and universities. Sensitive fish and wildlife data may be released to tribal governments. Sensitive fish and wildlife data may also be released to the owner, lessee, or right-of-way or easement holder of the private land to which the data pertains. The release of sensitive fish and wildlife data may be subject to a confidentiality agreement, except upon release of sensitive fish and wildlife data to the owner, lessee, or right-of-way or easement holder of private land who initially provided the data. Sensitive fish and wildlife data must meet at least one of the following criteria of this subsection as applied by the department of fish and wildlife((- however, sensitive wildlife data may be released to government agencies concerned with the management of fish and wildlife resources. As used in this subsection, sensitive wildlife data includes)):

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(a) The nesting sites or specific locations of endangered species designated under RCW 77.12.020, or threatened or sensitive species classified by rule of the department of fish and wildlife;

(b) Radio frequencies used in, or locational data generated by, telemetry studies; or

(c) Other location data that could compromise the viability of a specific fish or wildlife population, and where at least one of the following criteria are met:

(i) The species has a known commercial or black market value;

(ii) There is a history of malicious take of that species and the species behavior or ecology renders it especially vulnerable; ~~((or))~~

(iii) There is a known demand to visit, take, or disturb ~~((and the species behavior or ecology renders it especially vulnerable))~~ the species; or

~~(iv) The species has an extremely limited distribution and concentration; and~~

(3) The personally identifying information of persons who acquire recreational licenses under RCW 77.32.010 or commercial licenses under chapter 77.65 or 77.70 RCW, except name, address of contact used by the department, and type of license, endorsement, or tag; however, the department of fish and wildlife may disclose personally identifying information to:

(a) Government agencies concerned with the management of fish and wildlife resources;

(b) The department of social and health services, child support division, and to the department of licensing in order to implement RCW 77.32.014 and 46.20.291; and

(c) Law enforcement agencies for the purpose of firearm possession enforcement under RCW 9.41.040."

MOTION

Senator Morton moved that the following amendment by Senators Morton and Jacobsen to the committee striking amendment be adopted.

On page 1, line 25 of the amendment, after "data," insert "Sensitive fish and wildlife data does not include data related to reports of predatory wildlife as specified in section 2 of this act."

On page 2, after line 29 of the amendment, insert the following:

NEW SECTION. Sec. 2. A new section is added to chapter 77.12 RCW to read as follows:

The department shall post on its internet web site all reported predatory wildlife interactions, including reported human safety confrontations or sightings as well as the known details of reported depredations by predatory wildlife on humans, pets, or livestock, within ten days of receiving the report. The posted material must include, but is not limited to, the location and time, the known details, and a running summary of such reported interactions by identified specie and interaction type within each affected county. For the purposes of this section and RCW 42.56.430, "predatory wildlife" means grizzly bears, wolves, and cougars."

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

The President declared the question before the Senate to be the adoption of the amendment by Senators Morton and Jacobsen on page 1, line 25 to the committee striking amendment to House Bill No. 1077.

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the

Committee on Natural Resources, Ocean & Recreation as amended to House Bill No. 1077.

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

MOTION

There being no objection, the following title amendments were adopted:

On page 1, line 2 of the title, after "data;" strike the remainder of the title and insert "and amending RCW 42.56.430."

On page 3, line 1 of the title amendment, after "insert" strike "and" and after "42.56.430" insert "; and adding a new section to chapter 77.12 RCW"

MOTION

On motion of Senator Jacobsen, the rules were suspended, House Bill No. 1077 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 Morton and Jacobsen 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. 1077 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1077 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 37; Nays, 9; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Franklin, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Keiser, Kilmer, Kline, Marr, McAuliffe, McCaslin, Morton, Oemig, Parlette, Pflug, Pridemore, Rasmussen, Roach, Schoesler, Sheldon, Shin, Spanel, Stevens, Weinstein and Zarelli - 37

Voting nay: Senators Fairley, Fraser, Kauffman, Kohl-Welles, Murray, Poulsen, Prentice, Regala and Rockefeller - 9

Excused: Senators Hewitt, Swecker and Tom - 3

HOUSE BILL NO. 1077 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED HOUSE BILL NO. 1688, by Representatives Newhouse, Grant and Morrell

Concerning the marketing of fruits and vegetables.

The measure was read the second time.

MOTION

On motion of Senator Rasmussen, the rules were suspended, Engrossed House Bill No. 1688 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.

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The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1688.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1688 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, 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, Weinstein and Zarelli - 46

Excused: Senators Hewitt, Swecker and Tom - 3

ENGROSSED HOUSE BILL NO. 1688, 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. 1966, by Representatives Curtis, Cody, Skinner, Morrell, Green, Barlow, Dameille, Ormsby and Schual-Berke

Clarifying the authority of physician assistants to sign and attest to documents.

The measure was read the second time.

#### MOTION

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

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that some state agencies and departments do not accept the signature of physician assistants on certain certificates, reports, and other documents that their supervising physician is permitted to sign, notwithstanding the fact that the signing of such documents is within the physician assistant's scope of practice, covered under their practice arrangement plan, and permitted pursuant to WAC 246-918-140.

It is therefore the intent of the legislature to clarify in statute what was adopted by rule in WAC 246-918-140, that a physician assistant may sign and attest to any document that might ordinarily be signed by the supervising physician and that is consistent with the terms of the practice arrangement plan.

**NEW SECTION. Sec. 2.** A new section is added to chapter 18.57A RCW to read as follows:

An osteopathic physician's assistant may sign and attest to any certificates, cards, forms, or other required documentation that the osteopathic physician's assistant's supervising osteopathic physician or osteopathic physician group may sign, provided that it is within the osteopathic physician's assistant's scope of practice and is consistent with the terms of the osteopathic physician's assistant's practice arrangement plan as required by this chapter.

**NEW SECTION. Sec. 3.** A new section is added to chapter 18.71A RCW to read as follows:

A physician assistant may sign and attest to any certificates, cards, forms, or other required documentation that the physician

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assistant's supervising physician or physician group may sign, provided that it is within the physician assistant's scope of practice and is consistent with the terms of the physician assistant's practice arrangement plan as required by this chapter."

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care to House Bill No. 1966.

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

#### MOTION

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

On page 1, line 2 of the title, after "documents;" strike the remainder of the title and insert "adding a new section to chapter 18.57A RCW; adding a new section to chapter 18.71A RCW; and creating a new section."

#### MOTION

On motion of Senator Keiser, the rules were suspended, House Bill No. 1966 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of House Bill No. 1966 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1966 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, 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, Weinstein and Zarelli - 46

Excused: Senators Hewitt, Swecker and Tom - 3

HOUSE BILL NO. 1966 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.

#### RULING BY THE PRESIDENT

President Owen: "Senator Honeyford has raised two related questions on the striking amendment to House Bill 1187: First, he asks whether it is appropriate for the Senate to substantively amend the title of a House Bill; and second, he asks whether the proposed amendment is beyond the scope and object of the underlying bill.

As to the first question, the President takes note of the fact that House rules and practice differ from those of the Senate



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THOMAS HOEMANN, Secretary of the Senate

with respect to title amendments, and it is probably fair to characterize the House's rules as stricter with respect to such amendments. That said, in the interest of comity and promoting good relations between the chambers, the President generally does not rule on matters of procedure within the House. Our rules allow for title amendments, and this body may make such amendments if it chooses. The body may be well-advised, of course, to take note of House practice and traditions in making such choices, but these are matters of negotiation and policy, not Senate procedure.

On the second question, relating to whether the striking amendment goes beyond the scope and object of the underlying bill, the President begins by taking a look at the measure in the form in which it originally came over from the House. In this case, the measure can be fairly characterized as a purely technical recodification of affordable housing statutes. There are no substantive provisions of law changed or enacted beyond this. By contrast, the striking amendment includes very substantive law allowing local governments to set up relocation assistance programs. It includes monetary amounts, notice provisions, language on condominium moratoriums, lease termination provisions, and limitations on interior construction. This language goes well beyond recodifying affordable housing statutes and is clearly outside the subject matter of the underlying bill as it came over from the House.

For these reasons, Senator Honeyford's second point is well-taken, and the amendment is beyond the scope and object of the underlying bill."

#### RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Schoesler on the scope and object of House Bill No.1430, the President finds and rules as follows: First the President would like to remind the body once again that the rule on scope and object is not concerned with the title of the bill. The President finds that the original bill does one very specific thing – it authorizes all cities, towns, counties, public corporations, and port districts to create partnerships and limited liability companies, and enter into public or private agreements in order to implement the federal New Markets Tax Credit Program.

Amendment No. 397 by Senator Kline would create an entirely new local government entity to help local communities mitigate the negative impact of multiple major public works and capital projects with significant public funding. While stimulating new investment in low-income communities, which is what the New Markets Tax Credit Program is designed to do, may have some harmful impact on a local community, there is insufficient nexus between the authorization in HB 1430 to local governments to implement the New Markets Tax Credit Program and Amendment No. 397's proposed new governmental entity to help communities mitigate the negative impact of multiple major public works and capital projects.

The President, therefore, finds that the amendment does change the scope and object of the bill and the point of order is well taken."

#### MOTION

At 5:09 p.m., on motion of Senator Eide, the Senate adjourned until 9:30 a.m. Tuesday, April 10, 2007.

BRAD OWEN, President of the Senate

1000  
 President Signed ..... 1  
 Speaker Signed ..... 1

1024-S  
 President Signed ..... 1  
 Speaker Signed ..... 1

1042  
 President Signed ..... 1  
 Speaker Signed ..... 1

1077  
 Other Action ..... 63  
 Second Reading ..... 62, 63  
 Third Reading Final Passage ..... 63

1088-S2  
 Other Action ..... 18  
 Second Reading ..... 15  
 Third Reading Final Passage ..... 18

1091-S  
 Other Action ..... 8, 9  
 Second Reading ..... 6, 8  
 Third Reading Final Passage ..... 10

1096-S2  
 Other Action ..... 50  
 Second Reading ..... 47  
 Third Reading Final Passage ..... 50

1114-S  
 President Signed ..... 1  
 Speaker Signed ..... 1

1144-S  
 President Signed ..... 1  
 Speaker Signed ..... 1

1185  
 President Signed ..... 1  
 Speaker Signed ..... 1

1261-S  
 President Signed ..... 1  
 Speaker Signed ..... 1

1262-S  
 President Signed ..... 1  
 Speaker Signed ..... 1

1278-S  
 President Signed ..... 1  
 Speaker Signed ..... 1

1292  
 President Signed ..... 1  
 Speaker Signed ..... 1

1305  
 President Signed ..... 1  
 Speaker Signed ..... 1

1344  
 Second Reading ..... 62  
 Third Reading Final Passage ..... 62

1349  
 President Signed ..... 1  
 Speaker Signed ..... 1

1366  
 Other Action ..... 47  
 Second Reading ..... 46  
 Third Reading Final Passage ..... 47

1381-S  
 President Signed ..... 1

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Speaker Signed . . . . . 1

1430 Other Action . . . . . 65

1437 President Signed . . . . . 1  
Speaker Signed . . . . . 1

1449 Other Action . . . . . 28  
Second Reading . . . . . 26  
Third Reading Final Passage . . . . . 28

1458-S President Signed . . . . . 1  
Speaker Signed . . . . . 1

1475 President Signed . . . . . 1  
Speaker Signed . . . . . 1

1500-S Second Reading . . . . . 13  
Third Reading Final Passage . . . . . 13

1508-S President Signed . . . . . 1  
Speaker Signed . . . . . 1

1513-S President Signed . . . . . 1  
Speaker Signed . . . . . 1

1528 Second Reading . . . . . 45  
Third Reading Final Passage . . . . . 46

1573-S2 Other Action . . . . . 12  
Second Reading . . . . . 10, 11, 12  
Third Reading Final Passage . . . . . 12

1592 Other Action . . . . . 53  
Second Reading . . . . . 51  
Third Reading Final Passage . . . . . 53

1624-S Other Action . . . . . 45  
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Third Reading Final Passage . . . . . 45

1636-S2 Other Action . . . . . 14  
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Third Reading Final Passage . . . . . 15

1669-S Second Reading . . . . . 19  
Third Reading Final Passage . . . . . 19

1688 Second Reading . . . . . 63  
Third Reading Final Passage . . . . . 64

1793 President Signed . . . . . 1  
Speaker Signed . . . . . 1

1848-S President Signed . . . . . 1  
Speaker Signed . . . . . 1

1870 President Signed . . . . . 1  
Speaker Signed . . . . . 1

1910-S2 Other Action . . . . . 58  
Second Reading . . . . . 53, 57  
Third Reading Final Passage . . . . . 58

1940 President Signed . . . . . 1

Speaker Signed . . . . . 1

1966 Other Action . . . . . 64  
Second Reading . . . . . 64  
Third Reading Final Passage . . . . . 64

1972 President Signed . . . . . 1  
Speaker Signed . . . . . 1

1981-S Second Reading . . . . . 26  
Third Reading Final Passage . . . . . 26

2008-S President Signed . . . . . 1  
Speaker Signed . . . . . 1

2135 Other Action . . . . . 50  
Second Reading . . . . . 50  
Third Reading Final Passage . . . . . 51

2147-S President Signed . . . . . 1  
Speaker Signed . . . . . 1

2161 President Signed . . . . . 1  
Speaker Signed . . . . . 1

2262-S2 Other Action . . . . . 61  
Second Reading . . . . . 58, 61  
Third Reading Final Passage . . . . . 62

2275-S Other Action . . . . . 30  
Second Reading . . . . . 29  
Third Reading Final Passage . . . . . 30

5032-S Messages . . . . . 29

5036 Speaker Signed . . . . . 1

5078-S President Signed . . . . . 29

5079 Speaker Signed . . . . . 1

5086 President Signed . . . . . 29

5087-S President Signed . . . . . 29

5113 Speaker Signed . . . . . 1

5118-S President Signed . . . . . 29

5122-S2 President Signed . . . . . 29

5134 President Signed . . . . . 29

5175 President Signed . . . . . 29

5190-S President Signed . . . . . 29

5199 President Signed . . . . . 29

5204 President Signed . . . . . 29

5231-S Speaker Signed . . . . . 1

5242-S President Signed . . . . . 29

5250-S

President Signed	29	5918	Speaker Signed	1
5259 Messages	29	5919-S	Messages	29
5263-S		5953	Speaker Signed	1
5264 Speaker Signed	1	6090	Messages	29
5273		6129	Messages	29
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5351		8649	Adopted	13
Speaker Signed	1		Introduced	12
5373-S		8684	Adopted	4
Messages	29		Introduced	4
5382		9000	Laura Anderson	
Speaker Signed	1		Confirmed	2
5385		9084	Max D. Anderson	
5398			Confirmed	19
President Signed	29	9087	Ronnie Behnke	
5403-S			Confirmed	5
President Signed	29	9097	Pat E. Clothier	
5405-S			Confirmed	2
Speaker Signed	1	9099	Dennis R. Colwell	
5408			Confirmed	2
Speaker Signed	1	9161	Roger Olstad	
5421			Confirmed	3
President Signed	29	9162	Lisa Parker	
5481-S			Confirmed	3
Speaker Signed	1	9164	Darlene Peters	
5490			Confirmed	3
Speaker Signed	1	9170	Michael V. Regimabal	
5513			Confirmed	3
Speaker Signed	1	9206	Patrick J. Oshie	
5525			Confirmed	4
Speaker Signed	1	9234	Cecilia Deluna-Gaeta	
5554-S			Confirmed	4
President Signed	29	9245	Gordon (Don) Piercy	
5688-S			Confirmed	5
Speaker Signed	1	9258	Don Dennis	
5715-S			Confirmed	5
Speaker Signed	1		PRESIDENT OF THE SENATE	
5717-S			Intro. Special Guest	10
President Signed	29		Intro. Special Guest, Hoquiam HS Girls Wrestling	4
5720-S			Intro. Special Guests	13
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5778			Parliamentary Inquiry, Senator Delvin	62
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5805-S2				
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5806-S2				
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Speaker Signed	1			
5883-S2				
Speaker Signed	1			