NINETY-NINTH DAY

MORNING SESSION

Senate Chamber, Olympia, Monday, April 20, 2009

The Senate was called to order at 9:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Hargrove, Prentice, Roach Sheldon and Zarelli.

The Sergeant at Arms Color Guard consisting of Pages Billy Ray Birge III and Randy Fishman, presented the Colors. Senator Shin 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 first order of business.

REPORTS OF STANDING COMMITTEES

April 18, 2009

SB 6116 Prime Sponsor, Senator Murray: Funding arts and heritage programs, tourism promotion, youth sport activities, regional centers, publicly owned stadiums, community development, and low income housing in a county with a population of one million five hundred thousand or more. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6116 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Zarelli; Hewitt; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Parlette; Pflug; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Tom, Vice Chair, Operating Budget; Carrell; Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

April 18, 2009

2SHB 1290 Prime Sponsor, Committee on Finance: Concerning local tourism promotion areas. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Zarelli; Fairley; Hewitt; Kline; Kohl-Welles; McDermott; Murray; Parlette; Pflug and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Carrell.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

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

MESSAGE FROM THE HOUSE

April 15, 2009

MR. PRESIDENT:
The House has passed the following bills:
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5688,
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 18, 2009

MR. PRESIDENT:
The House has passed the following bills:
SUBSTITUTE HOUSE BILL NO. 2068,
HOUSE BILL NO. 2359,
HOUSE BILL NO. 2360,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 18, 2009

MR. PRESIDENT:
The House concurred in Senate amendment to the following bills and passed the bills as amended by the Senate:
SECOND SUBSTITUTE HOUSE BILL NO. 1021,
SUBSTITUTE HOUSE BILL NO. 1036,
ENGROSSED HOUSE BILL NO. 1087,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1123,
HOUSE BILL NO. 1127,
HOUSE BILL NO. 1137,
HOUSE BILL NO. 1158,
ENGROSSED HOUSE BILL NO. 1167,
HOUSE BILL NO. 1184,
SUBSTITUTE HOUSE BILL NO. 1215,
SUBSTITUTE HOUSE BILL NO. 1225,
HOUSE BILL NO. 2165,
HOUSE BILL NO. 2313,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 18, 2009

MR. PRESIDENT:
The House concurred in Senate amendment to the following bills and passed the bills as amended by the Senate:
SUBSTITUTE HOUSE BILL NO. 1201,
SUBSTITUTE HOUSE BILL NO. 1402,
HOUSE BILL NO. 1717,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1741,
SUBSTITUTE HOUSE BILL NO. 1749,
SUBSTITUTE HOUSE BILL NO. 1769,
HOUSE BILL NO. 1789,
HOUSE BILL NO. 1790,
SUBSTITUTE HOUSE BILL NO. 1791,

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 18, 2009

MR. PRESIDENT:
The House concurred in Senate amendment to the following bills and passed the bills as amended by the Senate:
HOUSE BILL NO. 1295,
SUBSTITUTE HOUSE BILL NO. 1309,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1326,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1362,
HOUSE BILL NO. 1433,
HOUSE BILL NO. 1448,
SUBSTITUTE HOUSE BILL NO. 1529,
ENGROSSED HOUSE BILL NO. 1530,
SUBSTITUTE HOUSE BILL NO. 1552,
ENGROSSED HOUSE BILL NO. 1566,
SECOND SUBSTITUTE HOUSE BILL NO. 1580,
SUBSTITUTE HOUSE BILL NO. 1583,
HOUSE BILL NO. 1640,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:
SUBSTITUTE SENATE BILL NO. 5160,
SUBSTITUTE SENATE BILL NO. 5171,
SENATE BILL NO. 5180,
SUBSTITUTE SENATE BILL NO. 5229,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5262,
SUBSTITUTE SENATE BILL NO. 5268,
SENATE BILL NO. 5289,
SUBSTITUTE SENATE BILL NO. 5340,
SENATE BILL NO. 5355,
SUBSTITUTE SENATE BILL NO. 5360,
SUBSTITUTE SENATE BILL NO. 5367,
SUBSTITUTE SENATE BILL NO. 5368,
SUBSTITUTE SENATE BILL NO. 5402,
SUBSTITUTE SENATE BILL NO. 5410,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5414,

MOTION

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

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Jacobsen moved that Gubernatorial Appointment No. 9115, Harriet A. Spanel, as a member of the Pacific Marine Fishery Commission, be confirmed.

Senators Jacobsen, Swecker and Ranker spoke in favor of passage of the motion.

MOTION

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

MOTION

On motion of Senator Brandland, Senators Benton, Hewitt, Parlette, Roach and Zarelli were excused.

APPOINTMENT OF HARRIET A. SPANEL

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9115, Harriet A. Spanel as a member of the Pacific Marine Fishery Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9115, Harriet A. Spanel as a member of the Pacific Marine Fishery Commission and the appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

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

Excused: Senators Hargrove, Prentice, Roach, Sheldon and Zarelli

Gubernatorial Appointment No. 9115, Harriet A. Spanel, having received the constitutional majority was declared confirmed as a member of the Pacific Marine Fishery Commission.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Kline moved that Gubernatorial Appointment No. 9007, Ida Ballasiotes, as a member of the Sentencing Guidelines Commission, be confirmed.

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

APPOINTMENT OF IDA BALLASIOTES

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9007, Ida Ballasiotes as a member of the Sentencing Guidelines Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9007, Ida Ballasiotes as a member of the Sentencing Guidelines Commission and the appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

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

Absent: Senator Kohl-Welles

Excused: Senators Hargrove, Roach, Sheldon and Zarelli

Gubernatorial Appointment No. 9007, Ida Ballasiotes, having received the constitutional majority was declared confirmed as a member of the Sentencing Guidelines Commission.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Keiser moved that Gubernatorial Appointment No. 9010, Rick S. Bender, as a member of the Work Force Training and Education Coordinating Board, be confirmed.

Senator Keiser spoke in favor of the motion.

APPOINTMENT OF RICK S. BENDER

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9010, Rick S. Bender as a member of the Work Force Training and Education Coordinating Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9010, Rick S. Bender as a member of the Work Force Training and Education Coordinating Board and the appointment was confirmed by the following vote: Yeas, 44; Nays, 2; Absent, 0; Excused, 3.

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

Voting nay: Senators Honeyford and Schoesler

Excused: Senators Hargrove, Roach and Zarelli

Gubernatorial Appointment No. 9010, Rick S. Bender, having received the constitutional majority was declared confirmed as a member of the Work Force Training and Education Coordinating Board.

MOTION

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

INTRODUCTION AND FIRST READING OF HOUSE BILLS

SHB 2068 by House Committee on Health Care & Wellness (originally sponsored by Representatives Goodman, Hurst, Priest, O'Brien, Miloscia, Seaquist, Cody, Appleton, Roberts, Campbell and Morrell)

AN ACT Relating to criminal background checks; and amending RCW 74.39A.055, 18.20.125, 18.88B.030, 43.20A.710, 43.43.837, 74.39A.050, 74.39A.095, and 74.39A.260.

Referred to Committee on Ways & Means.

HB 2359 by Representative Cody

AN ACT Relating to delaying the implementation date for peer mentoring for long-term care workers; and amending RCW 74.39A.330.

Referred to Committee on Ways & Means.

HB 2360 by Representative Darneille

AN ACT Relating to consolidation of administrative services for AIDS grants in the department of health; amending RCW 70.24.400; and providing an effective date.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

MOTION

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

MESSAGE FROM THE HOUSE

April 16, 2009

MR. PRESIDENT:
The House has passed SECOND SUBSTITUTE SENATE BILL NO. 5045 with the following amendment: 5045-S2 AMH ENGR H3059.E

Strike everything after the enacting clause and insert the following:

"**PART I**
LOCAL REVITALIZATION FINANCING--GENERAL PROVISIONS

NEW SECTION. **Sec. 101.** The legislature recognizes that the state as a whole benefits from investment in public infrastructure because it promotes community and economic development. Public investment stimulates business activity and helps create jobs, stimulates the redevelopment of brownfields and blighted areas in the inner city, lowers the cost of housing, and promotes efficient land use. The legislature finds that these activities generate revenue for the state and that it is in the public interest to invest in these projects through a credit against the state sales and use tax to those local governments that can demonstrate the expected returns to the state.

NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Annual state contribution limit" means two million five hundred thousand dollars statewide per fiscal year and the additional amounts designated for demonstration projects in section 402 of this act.

(2) "Assessed value" means the valuation of taxable real property as placed on the last completed assessment roll.

(3) "Department" means the department of revenue.

(4) "Fiscal year" means the twelve-month period beginning July 1st and ending the following June 30th.

(5) "Local government" means any city, town, county, and port district.

(6) "Local property tax allocation revenue" means those tax revenues derived from the receipt of regular property taxes levied on the property tax allocation revenue value and used for local revitalization financing.

(7) "Local revitalization financing" means the use of revenues from local public sources, dedicated to pay the principal and interest on bonds authorized under section 701 of this act and public improvement costs within the revitalization area on a pay-as-you-go basis, and revenues received from the local option sales and use tax authorized in section 601 of this act, dedicated to pay the principal and interest on bonds authorized under section 701 of this act.

(8) "Local sales and use tax increment" means the estimated annual increase in local sales and use taxes as determined by the local government in the calendar years following the approval of the revitalization area by the department from taxable activity within the revitalization area.

(9) "Local sales and use taxes" means local revenues derived from the imposition of sales and use taxes authorized in RCW 82.14.030.

(10) "Ordinance" means any appropriate method of taking legislative action by a local government.

(11) "Participating local government" means a local government having a revitalization area within its geographic

boundaries that has taken action as provided in section 107(1) of this act to allow the use of all or some of its local sales and use tax increment or other revenues from local public sources dedicated for local revitalization financing.

(12) "Participating taxing district" means a local government having a revitalization area within its geographic boundaries that has not taken action as provided in section 106(2) of this act.

(13) "Property tax allocation revenue base value" means the assessed value of real property located within a revitalization area, less the property tax allocation revenue value.

(14)(a)(i) "Property tax allocation revenue value" means seventy-five percent of any increase in the assessed value of real property in a revitalization area resulting from:

(A) The placement of new construction, improvements to property, or both, on the assessment roll, where the new construction and improvements are initiated after the revitalization area is approved by the department;

(B) The cost of new housing construction, conversion, and rehabilitation improvements, when the cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.14.020, and the new housing construction, conversion, and rehabilitation improvements are initiated after the revitalization area is approved by the department;

(C) The cost of rehabilitation of historic property, when the cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.26.070, and the rehabilitation is initiated after the revitalization area is approved by the department.

(ii) Increases in the assessed value of real property in a revitalization area resulting from (a)(i)(A) through (C) of this subsection are included in the property tax allocation revenue value in the initial year. These same amounts are also included in the property tax allocation revenue value in subsequent years unless the property becomes exempt from property taxation.

(b) "Property tax allocation revenue value" includes seventy-five percent of any increase in the assessed value of new construction consisting of an entire building in the years following the initial year, unless the building becomes exempt from property taxation.

(c) Except as provided in (b) of this subsection, "property tax allocation revenue value" does not include any increase in the assessed value of real property after the initial year.

(d) There is no property tax allocation revenue value if the assessed value of real property in a revitalization area has not increased as a result of any of the reasons specified in (a)(i)(A) through (C) of this subsection.

(e) For purposes of this subsection, "initial year" means:

(i) For new construction and improvements to property added to the assessment roll, the year during which the new construction and improvements are initially placed on the assessment roll;

(ii) For the cost of new housing construction, conversion, and rehabilitation improvements, when the cost is treated as new construction for purposes of chapter 84.55 RCW, the year when the cost is treated as new construction for purposes of levying taxes for collection in the following year; and

(iii) For the cost of rehabilitation of historic property, when the cost is treated as new construction for purposes of chapter 84.55 RCW, the year when such cost is treated as new construction for purposes of levying taxes for collection in the following year.

(15) "Public improvement costs" means the costs of:

(a) Design, planning, acquisition, including land acquisition, site preparation including land clearing, construction, reconstruction, rehabilitation, improvement, and installation of public improvements;

(b) Demolishing, relocating, maintaining, and operating property pending construction of public improvements;

(c) Relocating utilities as a result of public improvements;

(d) Financing public improvements, including interest during construction, legal and other professional services, taxes, insurance, principal and interest costs on general indebtedness issued to finance public improvements, and any necessary reserves for general indebtedness; and

(e) Administrative expenses and feasibility studies reasonably necessary and related to these costs, including related costs that may have been incurred before adoption of the ordinance authorizing the public improvements and the use of local revitalization financing to fund the costs of the public improvements.

(16) "Public improvements" means:

(a) Infrastructure improvements within the revitalization area that include:

(i) Street, road, bridge, and rail construction and maintenance;

(ii) Water and sewer system construction and improvements;

(iii) Sidewalks, streetlights, landscaping, and streetscaping;

(iv) Parking, terminal, and dock facilities;

(v) Park and ride facilities of a transit authority;

(vi) Park facilities, recreational areas, and environmental remediation;

(vii) Storm water and drainage management systems;

(viii) Electric, gas, fiber, and other utility infrastructures; and

(b) Expenditures for any of the following purposes:

(i) Providing environmental analysis, professional management, planning, and promotion within the revitalization area, including the management and promotion of retail trade activities in the revitalization area;

(ii) Providing maintenance and security for common or public areas in the revitalization area; or

(iii) Historic preservation activities authorized under RCW 35.21.395.

(17) "Real property" has the same meaning as in RCW 84.04.090 and also includes any privately owned improvements located on publicly owned land that are subject to property taxation.

(18) "Regular property taxes" means regular property taxes as defined in RCW 84.04.140, except: (a) Regular property taxes levied by public utility districts specifically for the purpose of making required payments of principal and interest on general indebtedness; (b) regular property taxes levied by the state for the support of common schools under RCW 84.52.065; and (c) regular property taxes authorized by RCW 84.55.050 that are limited to a specific purpose. "Regular property taxes" do not include excess property tax levies that are exempt from the aggregate limits for junior and senior taxing districts as provided in RCW 84.52.043.

(19)(a) "Revenues from local public sources" means:

(i) The local sales and use tax amounts received as a result of interlocal agreement, local sales and use tax amounts from sponsoring local governments based on its local sales and use tax increment, and local property tax allocation revenues, which are dedicated by a sponsoring local government, participating local governments, and participating taxing districts, for payment of bonds under section 701 of this act or public improvement costs within the revitalization area on a pay-as-you-go basis; and

(ii) Any other local revenues, except as provided in (b) of this subsection, including revenues derived from federal and private sources, which are dedicated for the payment of bonds under section 701 of this act or public improvement costs within the revitalization area on a pay-as-you-go basis.

(b) Revenues from local public sources do not include any local funds derived from state grants, state loans, or any other state moneys including any local sales and use taxes credited against the state sales and use taxes imposed under chapter 82.08 or 82.12 RCW.

(20) "Revitalization area" means the geographic area adopted by a sponsoring local government and approved by the department, from which local sales and use tax increments are estimated and property tax allocation revenues are derived for local revitalization financing.

(21) "Sponsoring local government" means a city, town, county, or any combination thereof, that adopts a revitalization area.

(22) "State contribution" means the lesser of:

(a) Five hundred thousand dollars;

(b) The project award amount approved by the department as provided in section 401 or 402 of this act; or

(c) The total amount of revenues from local public sources dedicated in the preceding calendar year to the payment of principal and interest on bonds issued under section 701 of this act and public improvement costs within the revitalization area on a pay-as-you-go basis. Revenues from local public sources dedicated in the preceding calendar year that are in excess of the project award may be carried forward and used in later years for the purpose of this subsection (22)(c).

(23) "State property tax increment" means the estimated amount of annual tax revenues estimated to be received by the state from the imposition of property taxes levied by the state for the support of common schools under RCW 84.52.065 on the property tax allocation revenue value, as determined by the sponsoring local government in an application under section 401 of this act and updated periodically as required in section 501 of this act.

(24) "State sales and use tax increment" means the estimated amount of annual increase in state sales and use taxes to be received by the state from taxable activity within the revitalization area in the years following the approval of the revitalization area by the department as determined by the sponsoring local government in an application under section 401 of this act and updated periodically as required in section 501 of this act.

(25) "State sales and use taxes" means state retail sales and use taxes under RCW 82.08.020(1) and 82.12.020 at the rate provided in RCW 82.08.020(1), less the amount of tax distributions from all local retail sales and use taxes, other than the local sales and use taxes authorized by section 601 of this act for the applicable revitalization area, imposed on the same taxable events that are credited against the state retail sales and use taxes under RCW 82.08.020(1) and 82.12.020.

(26) "Taxing district" means a government entity that levies or has levied for it regular property taxes upon real property located within a proposed or approved revitalization area.

NEW SECTION. **Sec. 103.** CONDITIONS. A local government may finance public improvements using local revitalization financing subject to the following conditions:

(1) The local government has adopted an ordinance designating a revitalization area within its boundaries and specified the public improvements proposed to be financed in whole or in part with the use of local revitalization financing;

(2) The public improvements proposed to be financed in whole or in part using local revitalization financing are expected to encourage private development within the revitalization area and to increase the fair market value of real property within the revitalization area;

(3) The local government has entered into a contract with a private developer relating to the development of private improvements within the revitalization area or has received a letter of intent from a private developer relating to the developer's plans for the development of private improvements within the revitalization area;

(4) Private development that is anticipated to occur within the revitalization area, as a result of the public improvements, will be consistent with the countywide planning policy adopted by the county under RCW 36.70A.210 and the local government's comprehensive plan and development regulations adopted under chapter 36.70A RCW;

(5) The local government may not use local revitalization financing to finance the costs associated with the financing, design, acquisition, construction, equipping, operating, maintaining, remodeling, repairing, and reequipping of public facilities funded with taxes collected under RCW 82.14.048 or 82.14.390;

(6) The governing body of the local government must make a finding that local revitalization financing:

(a) Will not be used for the purpose of relocating a business from outside the revitalization area, but within this state, into the revitalization area unless convincing evidence is provided that the firm being relocated would otherwise leave the state;

(b) Will improve the viability of existing business entities within the revitalization area; and

(c) Will be used exclusively in areas within the jurisdiction of the local government deemed in need of either economic development or redevelopment, or both, and absent the financing available under this chapter and sections 601 and 602 of this act the proposed economic development or redevelopment would more than likely not occur; and

(7) The governing body of the local government finds that the public improvements proposed to be financed in whole or in part using local revitalization financing are reasonably likely to:

(a) Increase private investment within the revitalization area;

(b) Increase employment within the revitalization area; and

(c) Generate, over the period of time that the local sales and use tax will be imposed under section 601 of this act, increases in state and local property, sales, and use tax revenues that are equal to or greater than the respective state and local contributions made under this chapter.

NEW SECTION. **Sec. 104.** CREATING A REVITALIZATION AREA. (1) Before adopting an ordinance creating the revitalization area, a sponsoring local government must:

(a) Provide notice to all taxing districts and local governments with geographic boundaries within the proposed revitalization area of the sponsoring local government's intent to create a revitalization area. Notice must be provided in writing to the governing body of the taxing districts and local governments at least thirty days in advance of the public hearing as required by (b) of this subsection. The notice must include at least the following information:

(i) The name of the proposed revitalization area;

(ii) The date for the public hearing as required by (b) of this subsection;

(iii) The earliest anticipated date when the sponsoring local government will take action to adopt the proposed revitalization area; and

(iv) The name of a contact person with phone number of the sponsoring local government and mailing address where a copy of an ordinance adopted under sections 105 and 106 of this act may be sent; and

(b) Hold a public hearing on the proposed financing of the public improvements in whole or in part with local revitalization financing. Notice of the public hearing must be published in a legal newspaper of general circulation within the proposed revitalization area at least ten days before the public hearing and posted in at least six conspicuous public places located in the proposed revitalization area. Notices must describe the contemplated public improvements, estimate the costs of the public improvements, describe the portion of the costs of the public improvements to be borne by local revitalization financing, describe any other sources of revenue to finance the public improvements, describe the boundaries of the proposed revitalization area, and estimate the period during which local revitalization financing is contemplated to be used. The public hearing may be held by either the governing body of the sponsoring local government, or a committee of the governing body that includes at least a majority of the whole governing body.

(2) To create a revitalization area, a sponsoring local government must adopt an ordinance establishing the revitalization area that:

(a) Describes the public improvements proposed to be made in the revitalization area;

(b) Describes the boundaries of the revitalization area, subject to the limitations in section 105 of this act;

(c) Estimates the cost of the proposed public improvements and the portion of these costs to be financed by local revitalization financing;

(d) Estimates the time during which local property tax allocation revenues, and other revenues from local public sources, such as amounts of local sales and use taxes from participating local governments, are to be used for local revitalization financing;

(e) Provides the date when the use of local property tax allocation revenues will commence and a list of the taxing districts that have not adopted an ordinance as described in

section 106 of this act to be removed as a participating taxing district;

(f) Finds that all of the requirements in section 103 of this act are met;

(g) Provides the anticipated rate of sales and use tax under section 601 of this act that the local government will impose if awarded a state contribution under section 401 of this act;

(h) Provides the anticipated date when the criteria for the sales and use tax in section 601 of this act will be met and the anticipated date when the sales and use tax in section 601 of this act will be imposed.

(3) The sponsoring local government must deliver a certified copy of the adopted ordinance to the county treasurer, the governing body of each participating taxing authority and participating taxing district within which the revitalization area is located, and the department.

NEW SECTION. **Sec. 105.** LIMITATIONS ON REVITALIZATION AREAS. The designation of a revitalization area is subject to the following limitations:

(1) No revitalization area may have within its geographic boundaries any part of a hospital benefit zone under chapter 39.100 RCW, any part of a revenue development area created under chapter 39.102 RCW, any part of an increment area under chapter 39.89 RCW, or any part of another revitalization area under this chapter;

(2) A revitalization area is limited to contiguous tracts, lots, pieces, or parcels of land without the creation of islands of property not included in the revitalization area;

(3) The boundaries may not be drawn to purposely exclude parcels where economic growth is unlikely to occur;

(4) The public improvements financed through bonds issued under section 701 of this act must be located in the revitalization area;

(5) A revitalization area cannot comprise an area containing more than twenty-five percent of the total assessed value of the taxable real property within the boundaries of the sponsoring local government at the time the revitalization area is created;

(6) The boundaries of the revitalization area may not be changed for the time period that local property tax allocation revenues, local sales and use taxes of participating local governments, and the local sales and use tax under section 601 of this act are used to pay bonds issued under section 701 of this act and public improvement costs within the revitalization area on a pay-as-you-go basis, as provided under this chapter; and

(7) A revitalization area must be geographically restricted to the location of the public improvement and adjacent locations that the sponsoring local government finds to have a high likelihood of receiving direct positive business and economic impacts due to the public improvement, such as a neighborhood or a block.

NEW SECTION. **Sec. 106.** OPTING OUT AS A PARTICIPATING TAXING DISTRICT. (1) Participating taxing districts must allow the use of all of their local property tax allocation revenues for local revitalization financing.

(2)(a) If a taxing district does not want to allow the use of its property tax revenues for the local revitalization financing of public improvements in a revitalization area, its governing body must adopt an ordinance to remove itself as a participating taxing district and must notify the sponsoring local government.

(b) The taxing district must provide a copy of the adopted ordinance and notice to the sponsoring local government creating the revitalization area before the anticipated date that the sponsoring local government proposes to adopt the ordinance creating the revitalization area as provided in the notice required by section 104(1)(a) of this act.

NEW SECTION. **Sec. 107.** OPTING IN OR OUT AS A PARTICIPATING LOCAL GOVERNMENT. (1) A participating local government must enter into an interlocal agreement as provided in chapter 39.34 RCW to participate in local revitalization financing with the sponsoring local government.

(2)(a) If a local government that imposes a sales and use tax under RCW 82.14.030 does not want to participate in the local revitalization financing of public improvements in a revitalization area, its governing body must adopt an ordinance and notify the sponsoring local government that the taxing authority will not be a participating local government.

(b) The local government must provide a copy of the adopted ordinance and the notice to the sponsoring local government creating the revitalization area before the anticipated date that the sponsoring local government proposes to adopt an ordinance creating the revitalization area as provided in the notice required by section 104(1)(a) of this act.

PART II
LOCAL REVITALIZATION FINANCING
USE OF LOCAL PROPERTY TAX ALLOCATION REVENUES TO PAY FOR THE COST OF PUBLIC IMPROVEMENTS

NEW SECTION. **Sec. 201** LOCAL PROPERTY TAX ALLOCATION REVENUES. (1) Commencing in the second calendar year following the creation of a revitalization area by a sponsoring local government, the county treasurer shall distribute receipts from regular taxes imposed on real property located in the revitalization area as follows:

(a) Each participating taxing district and the sponsoring local government must receive that portion of its regular property taxes produced by the rate of tax levied by or for the taxing district on the property tax allocation revenue base value for that local revitalization financing project in the taxing district; and

(b) The sponsoring local government must receive an additional portion of the regular property taxes levied by it and by or for each participating taxing district upon the property tax allocation revenue value within the revitalization area. However, if there is no property tax allocation revenue value, the sponsoring local government may not receive any additional regular property taxes under this subsection (1)(b). The sponsoring local government may agree to receive less than the full amount of the additional portion of regular property taxes under this subsection (1)(b) as long as bond debt service, reserve, and other bond covenant requirements are satisfied, in which case the balance of these tax receipts shall be allocated to the participating taxing districts that levied regular property taxes, or have regular property taxes levied for them, in the revitalization area for collection that year in proportion to their regular tax levy rates for collection that year. The sponsoring local government may request that the treasurer transfer this additional portion of the property taxes to its designated agent. The portion of the tax receipts distributed to the sponsoring local government or its agent under this subsection (1)(b) may only be expended to finance public improvement costs associated with the public improvements financed in whole or in part by local revitalization financing.

(2) The county assessor shall determine the property tax allocation revenue value and property tax allocation revenue base value. This section does not authorize revaluations of real property by the assessor for property taxation that are not made in accordance with the assessor's revaluation plan under chapter 84.41 RCW or under other authorized revaluation procedures.

(3) The distribution of local property tax allocation revenue to the sponsoring local government must cease when local property tax allocation revenues are no longer obligated to pay the costs of the public improvements. Any excess local property tax allocation revenues, and earnings on the revenues, remaining at the time the distribution of local property tax allocation revenue terminates, must be returned to the county treasurer and distributed to the participating taxing districts that imposed regular property taxes, or had regular property taxes imposed for it, in the revitalization area for collection that year, in proportion to the rates of their regular property tax levies for collection that year.

(4) The allocation to the revitalization area of that portion of the sponsoring local government's and each participating taxing district's regular property taxes levied upon the property tax allocation revenue value within that revitalization area is declared to be a public purpose of and benefit to the sponsoring local government and each participating taxing district.

(5) The distribution of local property tax allocation revenues under this section may not affect or be deemed to affect the rate of taxes levied by or within any sponsoring local government and participating taxing district or the consistency of any such levies with the uniformity requirement of Article VII, section 1 of the state Constitution.

PART III
LOCAL REVITALIZATION FINANCING
USE OF LOCAL SALES AND USE TAX INCREMENTS
TO PAY FOR
THE COST OF PUBLIC IMPROVEMENTS

NEW SECTION. **Sec. 301.** LOCAL SALES AND USE TAX INCREMENTS. (1) A sponsoring local government may use annually local sales and use tax amounts equal to some or all of its local sales and use tax increments to finance public improvements in the revitalization area. The amounts of local sales and use tax dedicated by a participating local government must begin and cease on the dates specified in an interlocal agreement authorized in chapter 39.34 RCW. Sponsoring local governments and participating local governments are authorized to allocate some or all of their local sales and use tax increment to the sponsoring local government as provided by section 107(1) of this act.

(2) The department, upon request, must assist sponsoring local governments in estimating sales and use tax revenues from estimated taxable activity in the proposed or adopted revitalization area. The sponsoring local government must provide the department with accurate information describing the geographical boundaries of the revitalization area in an electronic format or in a manner as otherwise prescribed by the department.

PART IV
LOCAL REVITALIZATION FINANCING--STATE CONTRIBUTION

NEW SECTION. **Sec. 401.** APPLICATION PROCESS--DEPARTMENT OF REVENUE APPROVAL. (1) Prior to applying to the department to receive a state contribution, a sponsoring local government shall adopt a revitalization area within the limitations in section 105 of this act and in accordance with section 104 of this act.

(2) As a condition to imposing a sales and use tax under section 601 of this act, a sponsoring local government must apply to the department and be approved for a project award amount. The application must be in a form and manner prescribed by the department and include, but not be limited to:

(a) Information establishing that over the period of time that the local sales and use tax will be imposed under section 601 of this act, increases in state and local property, sales, and use tax revenues as a result of public improvements in the revitalization area will be equal to or greater than the respective state and local contributions made under this chapter;

(b) Information demonstrating that the sponsoring local government will meet the requirements necessary to receive the full amount of state contribution it is requesting on an annual basis;

(c) The amount of state contribution it is requesting;

(d) The anticipated effective date for imposing the tax under section 601 of this act;

(e) The estimated number of years that the tax will be imposed;

(f) The anticipated rate of tax to be imposed under section 601 of this act, subject to the rate-setting conditions in section 601(3) of this act, should the sponsoring local government be approved for a project award; and

(g) The anticipated date when bonds under section 701 of this act will be issued.

The department shall make available electronic forms to be used for this purpose. As part of the application, each applicant must provide to the department a copy of the adopted ordinance creating the revitalization area as required in section 104 of this act, copies of any adopted interlocal agreements from participating local governments, and any notices from taxing districts that elect not to be a participating taxing district.

(3)(a) Project awards must be determined on:

(i) A first-come basis for applications completed in their entirety and submitted electronically;

(ii) The availability of a state contribution;

(iii) Whether the sponsoring local government would be able to generate enough tax revenue under section 601 of this act to generate the amount of project award requested.

(b) The total of all project awards may not exceed the annual state contribution limit.

(c) If the level of available state contribution is less than the amount requested by the next available applicant, the applicant must be given the first opportunity to accept the lesser amount of state contribution but only if the applicant produces a new application within sixty days of being notified by the department and the application describes the impact on the proposed project as a result of the lesser award in addition to new application information outlined in subsection (2) of this section.

(d) Applications that are not approved for a project award due to lack of available state contribution must be retained on file by the department in order of the date of their receipt.

(e) Once total project awards reach the amount of annual state contribution limit, no more applications will be accepted.

(f) If the annual contribution limit is increased, applications will be accepted again beginning sixty days after the effective date of the increase. However, in the time period before any new applications are accepted, all sponsoring local governments with a complete application already on file with the department must be provided an opportunity to either withdraw their application or update the information in the application. The updated application must be for a project that is substantially the same as the project in the original application. The department must consider these applications, in the order originally submitted, for project awards prior to considering any new applications.

(4) The department shall notify the sponsoring local government of approval or denial of a project award within sixty days of the department's receipt of the sponsoring local government's application. Determination of a project award by the department is final. Notification must include the earliest date when the tax authorized under section 601 of this act may be imposed, subject to conditions in chapter 82.14 RCW. The project award notification must specify the rate requested in the application and any adjustments to the rate that would need to be made based on the project award and rate restrictions in section 601 of this act.

(5) The department must begin accepting applications on September 1, 2009.

NEW SECTION. **Sec. 402.** A new section is added to chapter 82.14 RCW to read as follows:

(1) Demonstration projects are designated to determine the feasibility of local revitalization financing. For the purpose of this section, "annual state contribution limit" means two million two hundred fifty thousand dollars statewide per fiscal year. Notwithstanding section 401 of this act, the department shall approve each demonstration project as follows:

(a) The Whitman county Pullman/Moscow corridor improvement project award shall not exceed two hundred thousand dollars;

(b) The University Place improvement project award shall not exceed five hundred thousand dollars;

(c) The Tacoma international financial services area/Tacoma dome project award shall not exceed five hundred thousand dollars;

(d) The Bremerton downtown improvement project award shall not exceed three hundred thirty thousand dollars;

(e) The Auburn downtown redevelopment project award shall not exceed two hundred fifty thousand dollars;

(f) The Vancouver Columbia waterfront/downtown project award shall not exceed two hundred twenty thousand dollars; and

(g) The Spokane University District project award shall not exceed two hundred fifty thousand dollars.

(2) Local government sponsors of demonstration projects must submit to the department no later than September 1, 2009, documentation that substantiates that the project has met the conditions, limitations, and requirements provided in this act.

(3) Within sixty days of such submittal, the department shall approve demonstration projects that have met these conditions, limitations, and requirements.

(4) Local government sponsors of demonstration projects may elect to decline the project awards as designated in this section, and may elect instead to submit applications according to the process described in section 401 of this act.

PART V
ACCOUNTABILITY REPORTS

NEW SECTION. **Sec. 501.** A new section is added to chapter 82.32 RCW to read as follows:

REPORTING REQUIREMENTS. (1) A sponsoring local government receiving a project award under section 401 of this act must provide a report to the department by March 1st of each year beginning March 1st after the project award has been approved. The report must contain the following information:

(a) The amounts of local property tax allocation revenues received in the preceding calendar year broken down by sponsoring local government and participating taxing district;

(b) The amount of state property tax allocation revenues estimated to have been received by the state in the preceding calendar year;

(c) The amount of local sales and use tax and other revenue from local public sources dedicated by any participating local government used for the payment of bonds under section 701 of this act and public improvement costs within the revitalization area on a pay-as-you-go basis in the preceding calendar year;

(d) The amount of local sales and use tax dedicated by the sponsoring local government, as it relates to the sponsoring local government's local sales and use tax increment, used for the payment of bonds under section 701 of this act and public improvement costs within the revitalization area on a pay-as-you-go basis;

(e) The amounts, other than those listed in (a) through (d) of this subsection, from local public sources, broken down by type or source, used for payment of bonds under section 701 of this act or public improvement costs within the revitalization area on a pay-as-you-go basis in the preceding calendar year;

(f) The anticipated date when bonds under section 701 of this act are expected to be retired;

(g) The names of any businesses locating within the revitalization area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local revitalization financing;

(h) An estimate of the cumulative number of permanent jobs created in the revitalization area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local revitalization financing;

(i) An estimate of the average wages and benefits received by all employees of businesses locating within the revitalization area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local revitalization financing;

(j) A list of public improvements financed by bonds issued under section 701 of this act and the date on which the bonds are anticipated to be retired;

(k) That the sponsoring local government is in compliance with section 103 of this act;

(l) At least once every three years, updated estimates of the amounts of state and local sales and use tax increments estimated to have been received since the approval by the department of the project award under section 401 of this act; and

(m) Any other information required by the department to enable the department to fulfill its duties under this chapter and section 601 of this act.

(2) The department shall make a report available to the public and the legislature by June 1st of each year. The report shall include a summary of the information provided to the department by sponsoring local governments under subsection (1) of this section.

PART VI
LOCAL SALES AND USE TAX CREDITED AGAINST THE STATE SALES AND USE TAXES

NEW SECTION. **Sec. 601.** LOCAL SALES AND USE TAX. (1) Any city or county that has been approved for a project award under section 401 of this act may impose a sales and use tax under the authority of this section in accordance with the terms of this chapter. Except as provided in this section, the tax is in addition to other taxes authorized by law and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the taxing jurisdiction of the city or county.

(2) The tax authorized under subsection (1) of this section is credited against the state taxes imposed under RCW 82.08.020(1) and 82.12.020 at the rate provided in RCW 82.08.020(1). The department must perform the collection of such taxes on behalf of the city or county at no cost to the city or county. The taxes must be distributed to cities and counties as provided in RCW 82.14.060.

(3) The rate of tax imposed by a city or county may not exceed the lesser of:

(a) The rate provided in RCW 82.08.020(1), less:

(i) The aggregate rates of all other local sales and use taxes imposed by any taxing authority on the same taxable events;

(ii) The aggregate rates of all taxes under RCW 82.14.465 and 82.14.475 and this section that are authorized but have not yet been imposed on the same taxable events by a city or county that has been approved to receive a state contribution by the department or the community economic revitalization board under chapter 39.-- RCW (the new chapter created in section 805 of this act) or chapter 39.100 or 39.102 RCW; and

(iii) The percentage amount of distributions required under RCW 82.08.020(5) multiplied by the rate of state taxes imposed under RCW 82.08.020(1); and

(b) The rate, as determined by the city or county in consultation with the department, reasonably necessary to receive the project award under section 401 of this act over ten months.

(4) The department, upon request, must assist a city or county in establishing its tax rate in accordance with subsection (3) of this section. Once the rate of tax is selected through the application process and approved under section 401 of this act, it may not be increased.

(5)(a) Except as provided in (c) of this subsection, no tax may be imposed under the authority of this section before:

(i) July 1, 2011;

(ii) July 1st of the second calendar year following the year in which the department approved the application made under section 401 of this act;

(iii) The state sales and use tax increment and state property tax increment for the preceding calendar year equal or exceed the amount of the project award approved by the department under section 401 of this act; and

(iv) Bonds have been issued according to section 701 of this act.

(b) The tax imposed under this section expires the earlier of the date that the bonds issued under the authority of section 701 of this act are retired or twenty-five years after the tax is first imposed.

(c) For a demonstration project described in section 402 of this act, no tax may be imposed under the authority of this section before:

(i) July 1, 2010; and

(ii) Bonds have been issued according to section 701 of this act.

(6) An ordinance or resolution adopted by the legislative authority of the city or county imposing a tax under this section must provide that:

(a) The tax will first be imposed on the first day of a fiscal year;

(b) The cumulative amount of tax received by the city or county, in any fiscal year, may not exceed the amount approved by the department under subsection (10) of this section;

(c) The department must cease distributing the tax for the remainder of any fiscal year in which either:

(i) The amount of tax received by the city or county equals the amount of distributions approved by the department for the fiscal year under subsection (10) of this section; or

(ii) The amount of revenue from taxes imposed under this section by all cities and counties equals the annual state contribution limit;

(d) The tax will be distributed again, should it cease to be distributed for any of the reasons provided in (c) of this subsection, at the beginning of the next fiscal year, subject to the restrictions in this section; and

(e) The state is entitled to any revenue generated by the tax in excess of the amounts specified in (c) of this subsection.

(7) If a city or county receives approval for more than one revitalization area within its jurisdiction, the city or county may impose a sales and use tax under this section for each revitalization area.

(8) The department must determine the amount of tax receipts distributed to each city and county imposing a sales and use tax under the authority of this section and must advise a city or county when tax distributions for the fiscal year equal the amount determined by the department in subsection (10) of this section. Determinations by the department of the amount of tax distributions attributable to a city or county are not appealable. The department must remit any tax receipts in excess of the amounts specified in subsection (6)(c) of this section to the state treasurer who must deposit the money in the general fund.

(9) If a city or county fails to comply with section 501 of this act, no tax may be distributed in the subsequent fiscal year until such time as the city or county complies and the department calculates the state contribution amount according to subsection (10) of this section for the fiscal year.

(10)(a) For each fiscal year that a city or county imposes the tax under the authority of this section, the department must approve the amount of taxes that may be distributed to the city or county. The amount approved by the department under this subsection is the lesser of:

(i) The state contribution;

(ii) The amount of project award granted by the department as provided in section 401 of this act; or

(iii) The total amount of revenues from local public sources dedicated in the preceding calendar year, as reported in the required annual report under section 501 of this act.

(b) A city or county may not receive, in any fiscal year, more revenues from taxes imposed under the authority of this section than the amount approved annually by the department.

(11) The amount of tax distributions received from taxes imposed under the authority of this section by all cities and counties is limited annually to not more than the amount of annual state contribution limit.

(12) The definitions in section 102 of this act apply to this section subject to subsection (13) of this section and unless the context clearly requires otherwise.

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

(a) "Local sales and use taxes" means sales and use taxes imposed by cities, counties, public facilities districts, and other local governments under the authority of this chapter, chapter 67.28 or 67.40 RCW, or any other chapter, and that are credited against the state sales and use taxes.

(b) "State sales and use taxes" means the taxes imposed in RCW 82.08.020(1) and 82.12.020.

NEW SECTION. **Sec. 602.** USE OF SALES AND USE TAX FUNDS. Money collected from the taxes imposed under section 601 of this act may be used only for the purpose of paying debt service on bonds issued under the authority in section 701 of this act.

PART VII

BOND AUTHORIZATION

NEW SECTION. **Sec. 701.** ISSUANCE OF GENERAL OBLIGATION BONDS. (1) A sponsoring local government creating a revitalization area and authorizing the use of local revitalization financing may incur general indebtedness, and issue general obligation bonds, to finance the public improvements and retire the indebtedness in whole or in part from local revitalization financing it receives, subject to the following requirements:

(a) The ordinance adopted by the sponsoring local government creating the revitalization area and authorizing the use of local revitalization financing indicates an intent to incur this indebtedness and the maximum amount of this indebtedness that is contemplated; and

(b) The sponsoring local government includes this statement of the intent in all notices required by section 104 of this act.

(2) The general indebtedness incurred under subsection (1) of this section may be payable from other tax revenues, the full faith and credit of the sponsoring local government, and nontax income, revenues, fees, and rents from the public improvements, as well as contributions, grants, and nontax money available to the local government for payment of costs of the public improvements or associated debt service on the general indebtedness.

(3) In addition to the requirements in subsection (1) of this section, a sponsoring local government creating a revitalization area and authorizing the use of local revitalization financing may require any nonpublic participants to provide adequate security to protect the public investment in the public improvement within the revitalization area.

(4) Bonds issued under this section must be authorized by ordinance of the sponsoring local government and may be issued in one or more series and must bear a date or dates, be payable upon demand or mature at a time or times, bear interest at a rate or rates, be in a denomination or denominations, be in a form either coupon or registered as provided in RCW 39.46.030, carry conversion or registration privileges, have a rank or priority, be executed in a manner, be payable in a medium of payment, at a place or places, and be subject to terms of redemption with or without premium, be secured in a manner, and have other characteristics, as may be provided by an ordinance or trust indenture or mortgage issued pursuant thereto.

(5) The sponsoring local government may annually pay into a fund to be established for the benefit of bonds issued under this section a fixed proportion or a fixed amount of any local property tax allocation revenues derived from property within the revitalization area containing the public improvements funded by the bonds, the payment to continue until all bonds payable from the fund are paid in full. The local government may also annually pay into the fund established in this section a fixed proportion or a fixed amount of any revenues derived from taxes imposed under section 601 of this act, such payment to continue until all bonds payable from the fund are paid in full. Revenues derived from taxes imposed under section 601 of this act are subject to the use restriction in section 602 of this act.

(6) In case any of the public officials of the sponsoring local government whose signatures appear on any bonds or any coupons issued under this chapter cease to be the officials before the delivery of the bonds, the signatures must, nevertheless, be valid and sufficient for all purposes, the same as if the officials had remained in office until the delivery. Any provision of any law to the contrary notwithstanding, any bonds issued under this chapter are fully negotiable.

(7) Notwithstanding subsections (4) through (6) of this section, bonds issued under this section may be issued and sold in accordance with chapter 39.46 RCW.

NEW SECTION. **Sec. 702.** USE OF TAX REVENUE FOR BOND REPAYMENT. A sponsoring local government that issues bonds under section 701 of this act to finance public improvements may pledge for the payment of such bonds all or part of any local property tax allocation revenues derived from the public improvements. The sponsoring local government may also pledge all or part of any revenues derived from taxes

imposed under section 601 of this act and held in connection with the public improvements. All of such tax revenues are subject to the use restriction in section 602 of this act.

NEW SECTION. **Sec. 703.** LIMITATION ON BONDS ISSUED. The bonds issued by a local government under section 701 of this act to finance public improvements do not constitute an obligation of the state of Washington, either general or special.

PART VIII
MISCELLANEOUS

NEW SECTION. **Sec. 801.** SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 802.** CAPTIONS AND PART HEADINGS NOT LAW. Captions and part headings used in this act do not constitute any part of the law.

NEW SECTION. **Sec. 803.** AUTHORITY. Nothing in this act may be construed to give port districts the authority to impose a sales or use tax under chapter 82.14 RCW.

NEW SECTION. **Sec. 804.** ADMINISTRATION BY THE DEPARTMENT. The department of revenue may adopt any rules under chapter 34.05 RCW it considers necessary for the administration of this chapter.

NEW SECTION. **Sec. 805.** Sections 101 through 401 and 701 through 804 of this act constitute a new chapter in Title 39 RCW.

NEW SECTION. **Sec. 806.** Sections 601 and 602 of this act are each added to chapter 82.14 RCW."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kastama moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5045.

Senator Kastama spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kastama that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5045.

The motion by Senator Kastama carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5045 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5045, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5045, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Hargrove and Zarelli

SECOND SUBSTITUTE SENATE BILL NO. 5045, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Marr, Senator McAuliffe was excused.

MESSAGE FROM THE HOUSE

April 9, 2009

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 5273 with the following amendment: 5273-S AMH ORMS HELA 059

On page 7, line 3, after "licensed" strike "architect;" insert "landscape architect; or"

On page 7, line 4, after "(b)" strike all material through "board" on line 13 and insert "Have a high school diploma or equivalent and eight years' practical landscape architectural work experience, which may include landscape design as a principal activity and post-secondary education approved by the board. At least six years of work experience must be under the direct supervision of a registered or licensed landscape architect. An applicant may receive up to two years of practical landscape architectural work experience for post-secondary education courses in landscape architecture, landscape architectural technology, or a related field, including courses in a community or technical college, if the courses are equivalent to education courses in an accredited landscape architectural degree program" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5273.

Senators Kohl-Welles, Holmquist and Murray spoke in favor of passage of the motion.

Senator Honeyford spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5273.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5273 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5273, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5273, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 30; Nays, 18; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller and Shin

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, McCaslin, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Tom

Excused: Senator Zarelli

SUBSTITUTE SENATE BILL NO. 5273, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 9, 2009

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 5539 with the following amendment: 5539-S AMH LGH H2965.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 36.29.024 and 2004 c 79 s 3 are each amended to read as follows:

The county treasurer may deduct the amounts necessary to reimburse the treasurer's office for the actual expenses the office incurs and to repay any county funds appropriated and expended for the initial administrative costs of establishing a county investment pool provided in RCW 36.29.022. These funds shall be used by the county treasurer as a revolving fund to defray the cost of administering the pool without regard to budget limitations. Any credits or payments to political subdivisions shall be calculated and made in a manner which equitably reflects the differing amounts of the political subdivision's respective deposits in the county investment pool and the differing periods of time for which the amounts were placed in the county investment pool. A county investment pool must be available for investment of funds of any local government that invests its money with the county under the provisions of RCW 36.29.020, and a county treasurer shall follow the request from the local government to invest its funds in the pool. As used in this section "actual expenses" include only the county treasurer's direct and out-of-pocket costs and do not include indirect or loss of opportunity costs. As used in this section, "direct costs" means those costs that can be identified specifically with the administration of the county investment pool. Direct costs include: (1) Compensation of employees for the time devoted and identified specifically to administering the pool; and (2) the cost of materials, services, or equipment acquired, consumed, or expended specifically for the purpose of administering the pool."

Correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Oemig moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5539.

Senator Oemig spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Oemig that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5539.

The motion by Senator Oemig carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5539 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5539, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5539, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 1; Excused, 1.

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

Voting nay: Senator Sheldon
Absent: Senator Hargrove
Excused: Senator Zarelli

SUBSTITUTE SENATE BILL NO. 5539, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 16, 2009

MR. PRESIDENT:
The House has passed SENATE BILL NO. 5540 with the following amendments: 5540 AMH MOEL LEAT 093 & 5540 AMH ORCU LEAT 099

On page 3, line 1, after "chapter" strike all material through "81.104.170" on line 5, and insert ", subject to the following restrictions:

(a) Any combined tax rates imposed under this chapter within the boundaries of the transit agency establishing a high capacity transportation corridor area or areas may not exceed the maximum rates authorized under RCW 81.104.150, 81.104.160, and 81.104.170;

(b) If a majority of the voters within the boundaries of a high capacity transportation corridor area approve a proposition imposing any high capacity transportation taxes, the governing body of the high capacity transportation corridor area may not seek subsequent voter approval of any additional high capacity transportation taxes, notwithstanding any remaining authorized taxing capacity; and

(c) The governing body of a high capacity transportation corridor area may not submit any authorizing proposition for voter-approved taxes prior to July 1, 2012"

On page 6, line 5, after "of" strike "forty" and insert "twenty-five"
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Jarrett moved that the Senate concur in the House amendment(s) to Senate Bill No. 5540.

Senators Jarrett, Swecker and Benton spoke in favor of the motion.

Senator Pflug spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Jarrett that the Senate concur in the House amendment(s) to Senate Bill No. 5540.

The motion by Senator Jarrett carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5540 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5540, as amended by the House.

Senators Benton, Pflug and Swecker spoke against passage of the bill.

Senator Pridemore spoke in favor of passage of the bill.

PERSONAL PRIVILEGE

Senator Pflug: "Thank you Mr. President. I think that one of the previous speakers came awfully close to or over a line and that is to impugn the motives of another member. I have pretty much had it with suggesting that we are just making floor

speeches that sound good as opposed to making serious points about what is good or bad in a bill before us. If you cannot make your point on the merits of the bill and can only suggest that the body should vote one way or the other by impugning the other member then I think that's not right...Ok, That's pretty much the sum of my concern. I think we need to be able to address the merits of the bill and not just denigrate the other side."

REPLY BY THE PRESIDENT

President Owen: "Senator Pflug, the President does not believe that this is a point of order. Point of Personal Privilege maybe. I was waiting for your point of order that's why I bring that up."

Senator Jarrett spoke in favor of passage of the bill.
Senator Roach spoke against passage of the bill.

MOTION

On motion of Senator Marr, Senator Brown was excused.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5540, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 29; Nays, 19; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Franklin, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens and Swecker

Excused: Senator Zarelli

SENATE BILL NO. 5540, as amended by the House, 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.

PARLIAMENTARY INQUIRY

Senator Murray: "Thank you Mr. President. When members refer to TVW or speaking to the TVW audience, are we no longer addressing the President when we say 'members listening' or people listening to TVW? Should members address their remarks only to the President?"

REPLY BY THE PRESIDENT

President Owen: "If you want to be specific, in the rules it does require that your remarks be to the President only. That would be even addressing them to each other would be inappropriate. It's very inappropriate addressing your remarks to people in the gallery and members do that on occasion. To be very specific, yes, the rules require that you make your remarks to the President. You can reference people listening and that sort of thing but if in fact you are talking directly to them that would be in violation of your own rules. The President will note that over the years he has provided some discretion in that area and has to be somewhat reasonable in the approach to that and that sometimes it is appropriate to make remarks in certain ways. However, directly making your remarks to an entity is by your rules, improper."

MESSAGE FROM THE HOUSE

April 1, 2009

MR. PRESIDENT:
The House has passed SENATE BILL NO. 5547 with the following amendment: 5547 AMH HS MERE 079

On page 2, beginning on line 28, after "assessment for" strike "a ((~~parent~~)) family member who resides with and is the primary care provider who provides personal care in the home to ((~~his or her~~)) an adult ((~~son or daughter~~)) with developmental disabilities" and insert the following: ":

(i) A parent who provides personal care in the home to his or her adult son or daughter with developmental disabilities; or

(ii) A family member who replaces the parent as the primary caregiver, resides with, and provides personal care in the home for the adult with developmental disabilities"

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Keiser moved that the Senate concur in the House amendment(s) to Senate Bill No. 5547.
Senator Keiser spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate concur in the House amendment(s) to Senate Bill No. 5547.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5547 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5547, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5547, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Zarelli

SENATE BILL NO. 5547, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 16, 2009

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 5556 with the following amendments: 5556-S AMH SHEA REDF 037 & 5556-S AMH ROLF MUNN 197

On page 3, line 34, after "taken" insert ", unless the toll has already been paid"

On page 4, after line 16, insert the following:

"NEW SECTION. **Sec. 2.** The department shall report to the transportation committees of the legislature by December 1, 2009 with recommendations regarding implementing a time

period for the payment of tolls after crossing the Tacoma Narrows Bridge in which individuals without a transponder could pay the toll due prior to the issuance of an infraction."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Haugen moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5556.

The President declared the question before the Senate to be the motion by Senator Haugen that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5556.

The motion by Senator Haugen carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5556 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5556, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5556, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 4; Absent, 0; Excused, 1.

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

Voting nay: Senators Benton, Carrell, McCaslin and Morton

Excused: Senator Zarelli

SUBSTITUTE SENATE BILL NO. 5556, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 7, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5561 with the following amendment: 5561-S AMH SIMP OSBO 088

On page 2, line 3, after "WAC," insert "but excluding owner- occupied single family residences legally occupied before the effective date of this act,"

On page 2, line 5, after "(2)" insert "(a)"

On page 2, at the beginning of line 12, insert the following:

"(b) Owner-occupied single family residences legally occupied before the effective date of this act are exempt from the requirements of this subsection (2). However, for any owner-occupied single family residence that is sold on or after the effective date of this act, the seller must equip the residence with carbon monoxide alarms in accordance with the requirements of the state building code before the buyer or any other person may legally occupy the residence following such sale."

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5561.

Senators Kohl-Welles and Holmquist spoke in favor of passage of the motion.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5561.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5561 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5561, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5561, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 38; Nays, 10; Absent, 0; Excused, 1.

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

Voting nay: Senators Carrell, Delvin, Hatfield, Holmquist, King, McCaslin, Morton, Pflug, Roach and Stevens

Excused: Senator Zarelli

SUBSTITUTE SENATE BILL NO. 5561, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 9, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5565 with the following amendments: 5565-S AMH ENVH MADS 065 & 5565-S AMH SHEA MADS 070

On page 3, line 1, after "with the" strike "local air pollution control authority to implement the prohibition" and insert "department or local air pollution control authority as the department or the local air pollution control authority implements the prohibition. However, cooperation shall not include enforcement of this prohibition. The responsibility for actual enforcement of the prohibition shall reside solely with the department or the local air pollution control authority"

On page 2, line 35, after "(4)" insert "If and only if the nonattainment area is within the jurisdiction of the department and the legislative authority of a city or county within the area of nonattainment formally expresses concerns with the department's written findings, then the department must publish on the department's website the reasons for prohibiting the use of solid fuel burning devices under subsection (2) of this section that includes a response to the concerns expressed by the city or county legislative authority.

(5)"

Renumber the remaining subsections consecutively and correct internal references accordingly.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Rockefeller moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5565.

The President declared the question before the Senate to be the motion by Senator Rockefeller that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5565.

The motion by Senator Rockefeller carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5565 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5565, as amended by the House.

Senators Schoesler, Honeyford and Sheldon spoke against passage of the bill.

Senator Rockefeller spoke in favor of passage of the bill.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5565, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 30; Nays, 18; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brandland, Brown, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

Voting nay: Senators Becker, Benton, Carrell, Delvin, Hargrove, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens and Swecker

Excused: Senator Zarelli

SUBSTITUTE SENATE BILL NO. 5565, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 8, 2009

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 5566 with the following amendment: 5566-S AMH FIN H2948.1

On page 10, after line 30, insert the following:

"NEW SECTION. **Sec. 5.** A new section is added to chapter 82.32 RCW to read as follows:

(1) Notwithstanding any other provision in this chapter, no interest or penalties may be imposed on any taxpayer because of errors in collecting or remitting the correct amount of local sales or use tax arising out of changes in local sales and use tax sourcing rules implemented under RCW 82.14.490 and section 502, chapter 6, Laws of 2007 if the taxpayer demonstrates that it made a good faith effort to comply with the sourcing rules.

(2) The relief from penalty and interest provided by subsection (1) of this section only applies to taxpayers with a gross income of the business of less than five hundred thousand dollars in the prior calendar year.

(3) The relief from penalty and interest provided by subsection (1) of this section does not apply with respect to sales occurring after December 31, 2012."

Correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Regala moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5566.

Senator Regala spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Regala that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5566.

The motion by Senator Regala carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5566 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5566, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5566, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 42; Nays, 4; Absent, 3; Excused, 0.

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

Voting nay: Senators Holmquist, Honeyford, Marr and Stevens

Absent: Senators Keiser, Ranker and Tom

SUBSTITUTE SENATE BILL NO. 5566, as amended by the House, 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, Senators Keiser, Ranker and Tom were excused.

REMARKS BY THE PRESIDENT

President Owen: "If I could have the members attention for just a moment? It would very helpful if, when you're voting, we really do need to hear your vote. Mouthing it and nodding your head doesn't work and let me just give an example of why that was important. At one time the President actually broke a tie vote when the majority actually had, it would of passed without my vote. We went back to the recording and were able to tell that how that person had voted that we had recorded wrong. So, if we can't hear you there's two problems: one is we mis-record you; and, secondly, we may not be able to go back and pick that up if we need to be. So, please nodding of the head and mouthing your vote is not acceptable. We need to hear you."

PARLIAMENTARY INQUIRY

Senator Jacobsen: "Are we going to introduce replays? Replay, where you go and review it?"

MESSAGE FROM THE HOUSE

April 13, 2009

MR. PRESIDENT:
The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5583 with the following amendment:5583-S.E AMH ENGR H2949.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that many watershed groups and programs, including but not limited to watershed planning units operating under chapter 90.82 RCW, have proposed or considered using the state trust water rights

program for water banking purposes to meet vital instream and out-of-stream needs within a watershed or region. The legislature also finds that water banking can: Provide critical tools to make water supplies available when and where needed during times of drought; improve stream flows and preserve instream values during fish critical periods; reduce water transaction costs, time, and risk to purchasers; facilitate fair and efficient reallocation of water from one beneficial use to another; provide water supplies to offset impacts related to future development and the issuance of new water rights; and facilitate water agreements that protect upstream community values while retaining flexibility to meet critical downstream water needs in times of scarcity. The legislature therefore declares that the intent of this act is to provide clear authority for water banking throughout the state and to improve the effectiveness of the state trust water rights program.

Sec. 2. RCW 90.42.100 and 2003 c 144 s 2 are each amended to read as follows:

(1) The department is hereby authorized to use the trust water rights program ((~~in the Yakima river basin~~)) for water banking purposes statewide.

(2) Water banking may be used for one or more of the following purposes:

(a) To authorize the use of trust water rights to mitigate for water resource impacts, future water supply needs, or any beneficial use under chapter 90.03, 90.44, or 90.54 RCW, consistent with any terms and conditions established by the transferor, except that within the Yakima river basin return flows from water rights authorized in whole or in part for any purpose shall remain available as part of the Yakima basin's total water supply available and to satisfy existing rights for other downstream uses and users;

(b) To document transfers of water rights to and from the trust water rights program; and

(c) To provide a source of water rights the department can make available to third parties on a temporary or permanent basis for any beneficial use under chapter 90.03, 90.44, or 90.54 RCW.

(3) The department shall not use water banking to:

(a) Cause detriment or injury to existing rights;

(b) Issue temporary water rights or portions thereof for new potable uses requiring an adequate and reliable water supply under RCW 19.27.097;

(c) Administer federal project water rights, including federal storage rights; or

(d) Allow carryover of stored water in the Yakima basin from one water year to another water year if it would negatively impact the total water supply available.

(4) The department shall provide notice and opportunity for comment to affected local governments and federally recognized tribal governments prior to utilizing the trust water rights program for water banking purposes for the first time in each watershed.

(5) Nothing in this section may be interpreted or administered in a manner that precludes the use of the department's existing authority to process trust water rights applications under this chapter or to process water right applications under chapter 90.03 or 90.44 RCW.

(6) For purposes of this section and RCW 90.42.135, "total water supply available" shall be defined as provided in the 1945 consent decree between the United States and water users in the Yakima river basin, and consistent with later interpretation by state and federal courts.

Sec. 3. RCW 90.42.020 and 1991 c 347 s 6 are each amended to read as follows:

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

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

(2) "Local government" means a city, town, public utility district, county, sewer district, or water district.

(3) "Net water savings" means the amount of water that is determined to be conserved and usable within a specified stream reach or reaches for other purposes without impairment or detriment to water rights existing at the time that a water conservation project is undertaken, reducing the ability to deliver water, or reducing the supply of water that otherwise would have been available to other existing water uses.

((~~(3)~~)) (4) "Trust water right" means any water right acquired by the state under this chapter for management in the state's trust water rights program.

((~~(4)~~)) (5) "Pilot planning areas" means the geographic areas designated under RCW 90.54.045(2).

((~~(5)~~)) (6) "Water conservation project" means any project or program that achieves physical or operational improvements that provide for increased water use efficiency in existing systems of diversion, conveyance, application, or use of water under water rights existing on July 28, 1991.

Sec. 4. RCW 90.42.040 and 2002 c 329 s 8 are each amended to read as follows:

(1) ((~~All trust water rights~~)) A trust water right acquired by the state shall be placed in the state trust water rights program to be managed by the department. The department shall exercise its authorities under the law in a manner that protects trust water rights. Trust water rights acquired by the state shall be held ((~~or~~)) in trust and authorized for use by the department for instream flows, irrigation, municipal, or other beneficial uses consistent with applicable regional plans for pilot planning areas, or to resolve critical water supply problems. The state may acquire a groundwater right to be placed in the state trust water rights program. To the extent practicable and subject to legislative appropriation, trust water rights acquired in an area with an approved watershed plan developed under chapter 90.82 RCW shall be consistent with that plan if the plan calls for such acquisition.

(2) The department shall issue a water right certificate in the name of the state of Washington for each permanent trust water right conveyed to the state indicating the quantity of water transferred to trust, the reach or reaches of the stream((~~, the quantity~~)) or the body of public groundwater that constitutes the place of use of the trust water right, and the use or uses to which it may be applied. A superseding certificate shall be issued that specifies the amount of water the water right holder would continue to be entitled to as a result of the water conservation project. The superseding certificate shall retain the same priority date as the original right. For nonpermanent conveyances, the department shall issue certificates or such other instruments as are necessary to reflect the changes in purpose or place of use or point of diversion or withdrawal.

(3) A trust water right retains the same priority date as the water right from which it originated, but as between ((~~them~~)) the two rights, the trust right shall be deemed to be inferior in priority unless otherwise specified by an agreement between the state and the party holding the original right.

(4) Exercise of a trust water right may be authorized only if the department first determines that neither water rights existing at the time the trust water right is established, nor the public interest will be impaired. If impairment becomes apparent during the time a trust water right is being exercised, the department shall cease or modify the use of the trust water right to eliminate the impairment. A trust water right acquired by the state and held or authorized for beneficial use by the department is considered to be exercised as long as it is in the trust water rights program. For the purposes of RCW 90.03.380(1) and 90.42.080(9), the consumptive quantity of a trust water right acquired by the state and held or authorized for use by the department is equal to the consumptive quantity of the right prior to transfer into the trust water rights program.

(5) Before any trust water right is created or modified, the department shall, at a minimum, require that a notice be published in a newspaper of general circulation published in the county or counties in which the storage, diversion, and use are to be made, and in other newspapers as the department determines is necessary, once a week for two consecutive weeks. At the same time the department shall send a notice containing pertinent information to all appropriate state agencies, potentially affected local governments and federally recognized tribal governments, and other interested parties.

(6) RCW 90.14.140 through 90.14.230 have no applicability to trust water rights held by the department under this chapter or exercised under this section.

(7) RCW 90.03.380 has no applicability to trust water rights acquired by the state through the funding of water conservation projects.

(8) ((~~Subsections (4) and (5) of this section do not apply to a trust water right resulting from a donation for instream flows described in RCW 90.42.080(1)(b) or to a trust water right leased under RCW 90.42.080(8) if the period of the lease does not exceed five years. However, the department shall provide the notice described in subsection (5) of this section the first time the trust water right resulting from the donation is exercised.~~

~~(9)~~)) Where a portion of an existing water right that is acquired or donated to the trust water rights program will assist in achieving established instream flows, the department shall process the change or amendment of the existing right without conducting a review of the extent and validity of the portion of the water right that will remain with the water right holder.

Sec. 5. RCW 90.42.080 and 2002 c 329 s 9 are each amended to read as follows:

(1)(a) The state may acquire all or portions of existing surface water or groundwater rights, by purchase, gift, or other appropriate means other than by condemnation, from any person or entity or combination of persons or entities. Once acquired, such rights are trust water rights. A water right acquired by the state that is expressly conditioned to limit its use to instream purposes shall be administered as a trust water right in compliance with that condition.

(b) If the holder of a right to surface water ((~~from a body of water~~)) or groundwater chooses to donate all or a portion of the person's water right to the trust water system to assist in providing instream flows or to preserve surface water or groundwater resources on a temporary or permanent basis, the department shall accept the donation on such terms as the person may prescribe as long as the donation satisfies the requirements of subsection (4) of this section and the other applicable requirements of this chapter and the terms prescribed are relevant and material to protecting any interest in the water right retained by the donor. Once accepted, such rights are trust water rights within the conditions prescribed by the donor.

(2) The department may enter into leases, contracts, or such other arrangements with other persons or entities as appropriate, to ensure that trust water rights acquired in accordance with this chapter may be exercised to the fullest possible extent.

(3) Trust water rights may be acquired by the state on a temporary or permanent basis.

(4) Except as provided in subsections (10) and (11) of this section, a water right donated under subsection (1)(b) of this section shall not exceed the extent to which the water right was exercised during the five years before the donation nor may the total of any portion of the water right remaining with the donor plus the donated portion of the water right exceed the extent to which the water right was exercised during the five years before the donation. A water right holder who believes his or her water right has been impaired by a trust water right donated under subsection (1)(b) of this section may request that the department review the impairment claim. If the department determines that ((~~exercising the~~)) a trust water right resulting from ((~~the~~)) a donation ((~~or exercising a portion of that trust water right donated~~)) under subsection (1)(b) of this section is impairing existing water rights in violation of RCW 90.42.070, the trust water right shall be altered by the department to eliminate the impairment. Any decision of the department to alter or not to alter a trust water right donated under subsection (1)(b) of this section is appealable to the pollution control hearings board under RCW 43.21B.230. A donated water right's status as a trust water right under this subsection is not evidence of the validity or quantity of the water right.

(5) The provisions of RCW 90.03.380 and 90.03.390 do not apply to donations for instream flows described in subsection (1)(b) of this section, but do apply to other transfers of water rights under this section except that the consumptive quantity of a trust water right acquired by the state and held or authorized for use by the department is equal to the consumptive quantity of the right prior to transfer into the trust water rights program.

(6) No funds may be expended for the purchase of water rights by the state pursuant to this section unless specifically appropriated for this purpose by the legislature.

(7) Any water right conveyed to the trust water right system as a gift that is expressly conditioned to limit its use to instream purposes shall be managed by the department for public purposes to ensure that it qualifies as a gift that is deductible for federal income taxation purposes for the person or entity conveying the water right.

(8) Except as provided in subsections (10) and (11) of this section, if the department acquires a trust water right by lease, the amount of the trust water right shall not exceed the extent to which the water right was exercised during the five years before the acquisition was made nor may the total of any portion of the water right remaining with the original water right holder plus the portion of the water right leased by the department exceed the extent to which the water right was exercised during the five years before the acquisition. A water right holder who believes his or her water right has been impaired by a trust water right leased under this subsection may request that the department review the impairment claim. If the department determines that ((~~exercising the~~)) a trust water right resulting from the leasing ((~~or exercising of a portion~~)) of that trust water right leased under this subsection is impairing existing water rights in violation of RCW 90.42.070, the trust water right shall be altered by the department to eliminate the impairment. Any decision of the department to alter or not to alter a trust water right leased under this subsection is appealable to the pollution control hearings board under RCW 43.21B.230. The department's leasing of a trust water right under this subsection is not evidence of the validity or quantity of the water right.

(9) For a water right donated to or acquired by the trust water rights program on a temporary basis, the full quantity of water diverted or withdrawn to exercise the right before the donation or acquisition shall be placed in the trust water rights program and shall revert to the donor or person from whom it was acquired when the trust period ends. For a trust water right acquired by the state and held or authorized for use by the department, the consumptive quantity of the right when it reverts to the donor or person from whom it was acquired is equal to the consumptive quantity of the right prior to transfer into the trust water rights program.

(10) For water rights donated or leased under subsection (4) or (8) of this section where nonuse of the water right is excused under RCW 90.14.140(1):

(a) The department shall calculate the amount of water eligible to be acquired by looking at the extent to which the right was exercised during the most recent five-year period preceding the date where nonuse of the water right was excused under RCW 90.14.140(1); and

(b) The total of the donated or leased portion of the water right and the portion of the water right remaining with the water right holder shall not exceed the extent to which the water right was exercised during the most recent five-year period preceding the date nonuse of the water right was excused under RCW 90.14.140(1).

(11) For water rights donated or leased under subsection (4) or (8) of this section where nonuse of the water right is exempt under RCW 90.14.140(2) (a) or (d):

(a) The amount of water eligible to be acquired shall be based on historical beneficial use; and

(b) The total of the donated or leased portion of the water right and the portion of the water right the water right holder continues to use shall not exceed the historical beneficial use of that right during the duration of the trust.

NEW SECTION. **Sec. 6.** A new section is added to chapter 90.42 RCW to read as follows:

Costs incurred by the department associated with water service contracts with federal agencies may be recovered by the department from persons withdrawing water or credits for water associated with water banking purposes as a condition of the exercise of a water right supplied from a federal water project.

NEW SECTION. **Sec. 7.** A new section is added to chapter 90.03 RCW to read as follows:

For purposes of calculating annual consumptive quantity as defined under RCW 90.03.380(1), if, within the most recent five-year period, the water right has been in the trust water rights program under chapter 90.38 or 90.42 RCW, or the nonuse of the water right has been excused from relinquishment under RCW 90.14.140, the department shall look to the most recent five-year period of continuous beneficial use preceding the date where the excuse for nonuse under RCW 90.14.140 was established and remained in effect.

NEW SECTION. **Sec. 8.** A new section is added to chapter 90.42 RCW to read as follows:

The department may adopt rules as necessary to implement this chapter.

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

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Rockefeller moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5583.

Senators Rockefeller and Honeyford spoke in favor of passage of the motion.

The President declared the question before the Senate to be the motion by Senator Rockefeller that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5583.

The motion by Senator Rockefeller carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5583 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5583, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5583, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

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

Voting nay: Senator Holmquist

Excused: Senators Keiser and Tom

ENGROSSED SUBSTITUTE SENATE BILL NO. 5583, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 14, 2009

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5601 with the following amendment:5601-S.E AMH ENGR H2901.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** It is declared to be the policy of this state that, in order to safeguard the public health, safety, and welfare, to protect the public from incompetent, unscrupulous, unauthorized persons and unprofessional conduct, and to ensure the availability of the highest possible standards of speech-language pathology services to the communicatively impaired people of this state, it is necessary to provide regulatory authority over persons offering speech-language pathology services as speech-language pathology assistants.

Sec. 2. RCW 18.35.010 and 2005 c 45 s 1 are each amended to read as follows:

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

(1) "Assistive listening device or system" means an amplification system that is specifically designed to improve the signal to noise ratio for the listener, reduce interference from noise in the background, and enhance hearing levels at a distance by picking up sound from as close to source as possible and sending it directly to the ear of the listener, excluding hearing instruments as defined in this chapter.

(2) "Licensed audiologist" means a person who is licensed by the department to engage in the practice of audiology and meets the qualifications in this chapter.

(3) "Audiology" means the application of principles, methods, and procedures related to hearing and the disorders of hearing and to related language and speech disorders, whether of organic or nonorganic origin, peripheral or central, that impede the normal process of human communication including, but not limited to, disorders of auditory sensitivity, acuity, function, processing, or vestibular function, the application of aural habilitation, rehabilitation, and appropriate devices including fitting and dispensing of hearing instruments, and cerumen management to treat such disorders.

(4) "Board" means the board of hearing and speech.

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

(6) "Establishment" means any permanent site housing a person engaging in the practice of fitting and dispensing of hearing instruments by a hearing instrument fitter/dispenser or audiologist; where the client can have personal contact and counsel during the firm's business hours; where business is conducted; and the address of which is given to the state for the purpose of bonding.

(7) "Facility" means any permanent site housing a person engaging in the practice of speech-language pathology and/or audiology, excluding the sale, lease, or rental of hearing instruments.

(8) "Fitting and dispensing of hearing instruments" means the sale, lease, or rental or attempted sale, lease, or rental of hearing instruments together with the selection and modification of hearing instruments and the administration of nondiagnostic tests as specified by RCW 18.35.110 and the use of procedures essential to the performance of these functions; and includes recommending specific hearing instrument systems, specific hearing instruments, or specific hearing instrument characteristics, the taking of impressions for ear molds for these purposes, the use of nondiagnostic procedures and equipment to verify the appropriateness of the hearing instrument fitting, and hearing instrument orientation. The fitting and dispensing of hearing instruments as defined by this chapter may be equally provided by a licensed hearing instrument fitter/dispenser or licensed audiologist.

(9) "Good standing" means a licensed hearing instrument fitter/dispenser, licensed audiologist, ((~~or~~)) licensed speech-language pathologist, or certified speech-language pathology assistant whose license or certification has not been subject to sanctions pursuant to chapter 18.130 RCW or sanctions by other states, territories, or the District of Columbia in the last two years.

(10) "Hearing instrument" means any wearable prosthetic instrument or device designed for or represented as aiding, improving, compensating for, or correcting defective human

hearing and any parts, attachments, or accessories of such an instrument or device, excluding batteries and cords, ear molds, and assistive listening devices.

(11) "Hearing instrument fitter/dispenser" means a person who is licensed to engage in the practice of fitting and dispensing of hearing instruments and meets the qualifications of this chapter.

(12) "Interim permit holder" means a person who holds the permit created under RCW 18.35.060 and who practices under the supervision of a licensed hearing instrument fitter/dispenser, licensed speech- language pathologist, or licensed audiologist.

(13) "Secretary" means the secretary of health.

(14) "Licensed speech-language pathologist" means a person who is licensed by the department to engage in the practice of speech- language pathology and meets the qualifications of this chapter.

(15) "Speech-language pathology" means the application of principles, methods, and procedures related to the development and disorders, whether of organic or nonorganic origin, that impede oral, pharyngeal, or laryngeal sensorimotor competencies and the normal process of human communication including, but not limited to, disorders and related disorders of speech, articulation, fluency, voice, verbal and written language, auditory comprehension, cognition/communication, and the application of augmentative communication treatment and devices for treatment of such disorders.

(16) "Speech-language pathology assistant" means a person who is certified by the department to provide speech-language pathology services under the direction and supervision of a licensed speech- language pathologist or speech-language pathologist certified as an educational staff associate by the superintendent of public instruction, and meets all of the requirements of this chapter.

(17) "Direct supervision" means the supervising speech-language pathologist is on-site and in view during the procedures or tasks. The board shall develop rules outlining the procedures or tasks allowable under direct supervision.

(18) "Indirect supervision" means the procedures or tasks are performed under the speech-language pathologist's overall direction and control, but the speech-language pathologist's presence is not required during the performance of the procedures or tasks. The board shall develop rules outlining the procedures or tasks allowable under indirect supervision.

Sec. 3. RCW 18.35.040 and 2007 c 271 s 1 are each amended to read as follows:

(1) An applicant for licensure as a hearing instrument fitter/dispenser must have the following minimum qualifications and shall pay a fee determined by the secretary as provided in RCW 43.70.250. An applicant shall be issued a license under the provisions of this chapter if the applicant has not committed unprofessional conduct as specified by chapter 18.130 RCW, and:

(a)(i) Satisfactorily completes the hearing instrument fitter/dispenser examination required by this chapter; and

(ii) Satisfactorily completes a minimum of a two-year degree program in hearing instrument fitter/dispenser instruction. The program must be approved by the board; or

(b) Holds a current, unsuspended, unrevoked license from another jurisdiction if the standards for licensing in such other jurisdiction are substantially equivalent to those prevailing in this state as provided in (a) of this subsection; or

(c)(i) Holds a current, unsuspended, unrevoked license from another jurisdiction, has been actively practicing as a licensed hearing aid fitter/dispenser in another jurisdiction for at least forty-eight of the last sixty months, and submits proof of completion of advance certification from either the international hearing society or the national board for certification in hearing instrument sciences; and

(ii) Satisfactorily completes the hearing instrument fitter/dispenser examination required by this chapter or a substantially equivalent examination approved by the board.

The applicant must present proof of qualifications to the board in the manner and on forms prescribed by the secretary and proof of completion of a minimum of four clock hours of AIDS education and training pursuant to rules adopted by the board.

(2)(a) An applicant for licensure as a speech-language pathologist or audiologist must have the following minimum qualifications:

((~~(a)~~)) (i) Has not committed unprofessional conduct as specified by the uniform disciplinary act;

((~~(b)~~)) (ii) Has a master's degree or the equivalent, or a doctorate degree or the equivalent, from a program at a board-approved institution of higher learning, which includes completion of a supervised clinical practicum experience as defined by rules adopted by the board; and

((~~(c)~~)) (iii) Has completed postgraduate professional work experience approved by the board.

(b) All qualified applicants must satisfactorily complete the speech-language pathology or audiology examinations required by this chapter.

(c) The applicant must present proof of qualifications to the board in the manner and on forms prescribed by the secretary and proof of completion of a minimum of four clock hours of AIDS education and training pursuant to rules adopted by the board.

(3) An applicant for certification as a speech-language pathology assistant shall pay a fee determined by the secretary as provided in RCW 43.70.250 and must have the following minimum qualifications:

(a) An associate of arts or sciences degree, or a certificate of proficiency, from a speech-language pathology assistant program from an institution of higher education that is approved by the board, as is evidenced by the following:

(i) Transcripts showing forty-five quarter hours or thirty semester hours of speech-language pathology coursework; and

(ii) Transcripts showing forty-five quarter hours or thirty semester hours of general education credit; or

(b) A bachelor of arts or bachelor of sciences degree, as evidenced by transcripts, from a speech, language, and hearing program from an institution of higher education that is approved by the board.

Sec. 4. RCW 18.35.095 and 2002 c 310 s 9 are each amended to read as follows:

(1) A hearing instrument fitter/dispenser licensed under this chapter and not actively practicing may be placed on inactive status by the department at the written request of the licensee. The board shall define by rule the conditions for inactive status licensure. In addition to the requirements of RCW 43.24.086, the licensing fee for a licensee on inactive status shall be directly related to the costs of administering an inactive license by the department. A hearing instrument fitter/dispenser on inactive status may be voluntarily placed on active status by notifying the department in writing, paying the remainder of the licensing fee for the licensing year, and complying with subsection (2) of this section.

(2) Hearing instrument fitter/dispenser inactive licensees applying for active licensure shall comply with the following: A licensee who has not fitted or dispensed hearing instruments for more than five years from the expiration of the licensee's full fee license shall retake the practical or the written, or both, hearing instrument fitter/dispenser examinations required under this chapter and other requirements as determined by the board. Persons who have inactive status in this state but who are actively licensed and in good standing in any other state shall not be required to take the hearing instrument fitter/dispenser practical examination, but must submit an affidavit attesting to their knowledge of the current Washington Administrative Code rules and Revised Code of Washington statutes pertaining to the fitting and dispensing of hearing instruments.

(3) A speech-language pathologist or audiologist licensed under this chapter, or a speech-language pathology assistant certified under this chapter, and not actively practicing either speech-language pathology or audiology may be placed on inactive status by the department at the written request of the license or certification holder. The board shall define by rule the conditions for inactive status licensure or certification. In addition to the requirements of RCW 43.24.086, the fee for a license or certification on inactive status shall be directly related

to the cost of administering an inactive license or certification by the department. A person on inactive status may be voluntarily placed on active status by notifying the department in writing, paying the remainder of the fee for the year, and complying with subsection (4) of this section.

(4) Speech-language pathologist, speech-language pathology assistant, or audiologist inactive license or certification holders applying for active licensure or certification shall comply with requirements set forth by the board, which may include completion of continuing competency requirements and taking an examination.

Sec. 5. RCW 18.35.150 and 2002 c 310 s 15 are each amended to read as follows:

(1) There is created hereby the board of hearing and speech to govern the three separate professions: Hearing instrument fitting/dispensing, audiology, and speech-language pathology. The board shall consist of ((~~ten~~)) eleven members to be appointed by the governor.

(2) Members of the board shall be residents of this state. Three members shall represent the public and shall have an interest in the rights of consumers of health services, and shall not be or have been a member of, or married to a member of, another licensing board, a licensee of a health occupation board, an employee of a health facility, nor derive his or her primary livelihood from the provision of health services at any level of responsibility. Two members shall be hearing instrument fitter/dispensers who are licensed under this chapter, have at least five years of experience in the practice of hearing instrument fitting and dispensing, and must be actively engaged in fitting and dispensing within two years of appointment. Two members of the board shall be audiologists licensed under this chapter who have at least five years of experience in the practice of audiology and must be actively engaged in practice within two years of appointment. Two members of the board shall be speech-language pathologists licensed under this chapter who have at least five years of experience in the practice of speech-language pathology and must be actively engaged in practice within two years of appointment. One advisory nonvoting member shall be a speech-language pathology assistant certified in Washington. One advisory nonvoting member shall be a medical physician licensed in the state of Washington.

(3) The term of office of a member is three years. Of the initial appointments, one hearing instrument fitter/dispenser, one speech- language pathologist, one audiologist, and one consumer shall be appointed for a term of two years, and one hearing instrument fitter/dispenser, one speech-language pathologist, one audiologist, and two consumers shall be appointed for a term of three years. Thereafter, all appointments shall be made for expired terms. No member shall be appointed to serve more than two consecutive terms. A member shall continue to serve until a successor has been appointed. The governor shall either reappoint the member or appoint a successor to assume the member's duties at the expiration of his or her predecessor's term. A vacancy in the office of a member shall be filled by appointment for the unexpired term.

(4) The chair shall rotate annually among the hearing instrument fitter/dispensers, speech-language pathologists, audiologists, and public members serving on the board. In the absence of the chair, the board shall appoint an interim chair. In event of a tie vote, the issue shall be brought to a second vote and the chair shall refrain from voting.

(5) The board shall meet at least once each year, at a place, day and hour determined by the board, unless otherwise directed by a majority of board members. The board shall also meet at such other times and places as are requested by the department or by three members of the board. A quorum is a majority of the board. A hearing instrument fitter/dispenser, speech-language pathologist, and audiologist must be represented. Meetings of the board shall be open and public, except the board may hold executive sessions to the extent permitted by chapter 42.30 RCW.

(6) Members of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for their travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(7) The governor may remove a member of the board for cause at the recommendation of a majority of the board.

Sec. 6. RCW 18.35.205 and 2002 c 310 s 22 are each amended to read as follows:

The legislature finds that the public health, safety, and welfare would best be protected by uniform regulation of hearing instrument fitter/dispensers, speech-language pathologists, speech-language pathology assistants, audiologists, and interim permit holders throughout the state. Therefore, the provisions of this chapter relating to the licensing or certification of hearing instrument fitter/dispensers, speech-language pathologists, speech-language pathology assistants, and audiologists and regulation of interim permit holders and their respective establishments or facilities is exclusive. No political subdivision of the state of Washington within whose jurisdiction a hearing instrument fitter/dispenser, audiologist, or speech-language pathologist establishment or facility is located may require any registrations, bonds, licenses, certificates, or interim permits of the establishment or facility or its employees or charge any fee for the same or similar purposes: PROVIDED, HOWEVER, That nothing herein shall limit or abridge the authority of any political subdivision to levy and collect a general and nondiscriminatory license fee levied on all businesses, or to levy a tax based upon the gross business conducted by any firm within the political subdivision.

Sec. 7. RCW 18.35.260 and 2002 c 310 s 26 are each amended to read as follows:

(1) A person who is not a licensed hearing instrument fitter/dispenser may not represent himself or herself as being so licensed and may not use in connection with his or her name the words "licensed hearing instrument fitter/dispenser," "hearing instrument specialist," or "hearing aid fitter/dispenser," or a variation, synonym, word, sign, number, insignia, coinage, or whatever expresses, employs, or implies these terms, names, or functions of a licensed hearing instrument fitter/dispenser.

(2) A person who is not a licensed speech-language pathologist may not represent himself or herself as being so licensed and may not use in connection with his or her name the words including "licensed speech-language pathologist" or a variation, synonym, word, sign, number, insignia, coinage, or whatever expresses, employs, or implies these terms, names, or functions as a licensed speech-language pathologist.

(3) A person who is not a certified speech-language pathology assistant may not represent himself or herself as being so certified and may not use in connection with his or her name the words including "certified speech-language pathology assistant" or a variation, synonym, word, sign, number, insignia, coinage, or whatever expresses, employs, or implies these terms, names, or functions as a certified speech-language pathology assistant.

(4) A person who is not a licensed audiologist may not represent himself or herself as being so licensed and may not use in connection with his or her name the words "licensed audiologist" or a variation, synonym, letter, word, sign, number, insignia, coinage, or whatever expresses, employs, or implies these terms, names, or functions of a licensed audiologist.

((~~(4)~~)) (5) Nothing in this chapter prohibits a person credentialed in this state under another act from engaging in the practice for which he or she is credentialed.

Sec. 8. RCW 18.130.040 and 2009 c 2 s 16 (Initiative Measure No. 1029) are each amended to read as follows:

(1) This chapter applies only to the secretary and the boards and commissions having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;

(ii) Naturopaths licensed under chapter 18.36A RCW;

(iii) Midwives licensed under chapter 18.50 RCW;

(iv) Ocularists licensed under chapter 18.55 RCW;

(v) Massage operators and businesses licensed under chapter 18.108 RCW;

(vi) Dental hygienists licensed under chapter 18.29 RCW;

(vii) Acupuncturists licensed under chapter 18.06 RCW;

(viii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(ix) Respiratory care practitioners licensed under chapter 18.89 RCW;

(x) Persons registered under chapter 18.19 RCW;

(xi) Persons licensed as mental health counselors, marriage and family therapists, and social workers under chapter 18.225 RCW;

(xii) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xiii) Nursing assistants registered or certified under chapter 18.88A RCW;

(xiv) Health care assistants certified under chapter 18.135 RCW;

(xv) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xvi) Chemical dependency professionals certified under chapter 18.205 RCW;

(xvii) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;

(xviii) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xix) Denturists licensed under chapter 18.30 RCW;

(xx) Orthotists and prosthetists licensed under chapter 18.200 RCW;

(xxi) Surgical technologists registered under chapter 18.215 RCW;

(xxii) Recreational therapists;

(xxiii) Animal massage practitioners certified under chapter 18.240 RCW;

(xxiv) Athletic trainers licensed under chapter 18.250 RCW; ((~~and~~))

(xxv) Home care aides certified under chapter 18.88B RCW; and

(xxvi) Speech-language pathology assistants certified under chapter 18.35 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW and licenses and registrations issued under chapter 18.260 RCW;

(iv) The board of hearing and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;

(viii) The board of pharmacy as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The medical quality assurance commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW; and

(xiv) The veterinary board of governors as established in chapter 18.92 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the Uniform Disciplinary Act, among the disciplining authorities listed in subsection (2) of this section.

NEW SECTION. **Sec. 9.** A new section is added to chapter 18.35 RCW to read as follows:

Speech-language pathologists are responsible for patient care given by assistive personnel under their supervision. A speech-language pathologist may delegate to assistive personnel selected acts, tasks, or procedures that fall within the scope of speech-language pathology practice but do not exceed the education or training of the assistive personnel.

NEW SECTION. **Sec. 10.** A new section is added to chapter 18.35 RCW to read as follows:

A speech-language pathology assistant may only perform procedures or tasks delegated by the speech-language pathologist and must follow the individualized education program or treatment plan. Speech- language pathology assistants may not perform procedures or tasks that require diagnosis, evaluation, or clinical interpretation.

NEW SECTION. **Sec. 11.** An applicant for certification as a speech- language pathology assistant may meet the requirements for certification as a speech-language pathology assistant if, within one year of the effective date of this section, he or she submits a competency checklist to the board of hearing and speech, and is employed under the supervision of a speech-language pathologist for at least six hundred hours within the last three years as defined by the board by rule.

NEW SECTION. **Sec. 12.** A new section is added to chapter 18.35 RCW to read as follows:

Nothing in this chapter may be construed to require that a health carrier defined in RCW 48.43.005 contract with a person certified as a speech-language pathology assistant under this chapter.

NEW SECTION. **Sec. 13.** A new section is added to chapter 28A.210 RCW to read as follows:

(1) The superintendent of public instruction shall report to the department of health:

(a) Any complaint or disciplinary action taken against a certified educational staff associate providing speech-language pathology services in a school setting; and

(b) Any complaint the superintendent receives regarding a speech- language pathology assistant certified under chapter 18.35 RCW.

(2) The superintendent of public instruction shall make the reports required by this section as soon as practicable, but in no case later than five business days after the complaint or disciplinary action.

NEW SECTION. **Sec. 14.** The code reviser is directed to put the defined terms in RCW 18.35.010 in alphabetical order.

NEW SECTION. **Sec. 15.** In order to allow for adequate time to establish the program created in this act, the provisions of this act must be implemented beginning one year after the effective date of this section."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Franklin moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5601.

Senator Franklin spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Franklin that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5601.

The motion by Senator Franklin carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5601 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5601, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5601, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 34; Nays, 14; Absent, 0; Excused, 1.

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

Voting nay: Senators Becker, Benton, Carrell, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Schoesler, Stevens, Swecker and Zarelli

Excused: Senator Tom

ENGROSSED SUBSTITUTE SENATE BILL NO. 5601, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 8, 2009

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 5608 with the following amendments: 5608-S AMH CODY MORI 047 & 5608-S AMH GREE MORI 049

On page 7, line 4, after "**Sec. 11.**" insert "(1) Except as provided in section 3 of this act, no person shall engage in the practice of genetic counseling unless he or she is licensed, or provisionally licensed, under this chapter.

(2)"

On page 7, line 6, after "counselor" insert "" or a "genetic counselor"

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Franklin moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5608.

Senator Franklin spoke in favor of the motion.

Senator Pflug spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Franklin that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5608.

The motion by Senator Franklin carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5608 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5608, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5608, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 41; Nays, 8; Absent, 0; Excused, 0.

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

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

SUBSTITUTE SENATE BILL NO. 5608, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 15, 2009

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 5610 with the following amendment: 5610-S AMH GOOD MUNN 187

On page 2, line 14, after "purposes" insert "related to driving by an individual as a condition of that individual's employment or otherwise at the direction of the employer or organization"

On page 2, line 15, after "(2)" insert the following:

"Nothing in this section shall be interpreted to prevent a court from providing a copy of the driver's abstract to the individual named in the abstract, provided that the named individual has a pending case in that court for a suspended license violation or an open infraction or criminal case in that court that has resulted in the suspension of the individual's driver's license. A pending case includes criminal cases that have not reached a disposition by plea, stipulation, trial, or amended charge. An open infraction or criminal case includes cases on probation, payment agreement or subject to, or in collections. Courts may charge a reasonable fee for production and copying of the abstract for the individual.

(3)"

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

On page 4, line 36, after "purposes" insert "related to driving by an individual as a condition of that individual's employment or otherwise at the direction of the employer or organization"

On page 5, line 23, after "purposes" insert "related to driving by an individual as a condition of that individual's employment or otherwise at the direction of the employer or organization"

On page 5, after line 30, insert the following:

"**Sec. 2.** RCW 46.01.260 and 1999 c 86 s 2 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the director, in his or her discretion, may destroy applications for vehicle licenses, copies of vehicle licenses issued, applications for drivers' licenses, copies of issued drivers' licenses, certificates of title and registration or other documents, records or supporting papers on file in his or her office which have been microfilmed or photographed or are more than five years old. If the applications for vehicle licenses are renewal applications, the director may destroy such applications when the computer record thereof has been updated.

(2)(a) The director shall not destroy records of convictions or adjudications of RCW 46.61.502, 46.61.504, 46.61.520, and 46.61.522, or records of deferred prosecutions granted under RCW 10.05.120 and shall maintain such records permanently on file.

(b) The director shall not, within fifteen years from the date of conviction or adjudication, destroy records ((~~of the following: (i) Convictions or adjudications of the following offenses: RCW 46.61.502 or 46.61.504; or (ii) I~~))if the offense was originally charged as one of the offenses designated in (a) ((~~or (b)(i)~~)) of this subsection, convictions or adjudications of the following offenses: RCW 46.61.500 or 46.61.5249, or any other violation that was originally charged as one of the offenses designated in (a) ((~~or (b)(i)~~)) of this subsection.

(c) For purposes of RCW 46.52.101 and 46.52.130, offenses subject to this subsection shall be considered "alcohol-related" offenses."

Correct the title

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Jarrett moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5610.

Senator Jarrett spoke in favor of the motion.

MOTION

On motion of Senator Marr, Senators Brandland, Brown, Fairley, Fraser and Regala were excused.

The President declared the question before the Senate to be the motion by Senator Jarrett that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5610.

The motion by Senator Jarrett carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5610 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5610, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5610, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 42; Nays, 3; Absent, 0; Excused, 4.

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

Voting nay: Senators Benton, Holmquist and Stevens

Excused: Senators Brandland, Fairley, Fraser and Regala

SUBSTITUTE SENATE BILL NO. 5610, as amended by the House, 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 King moved adoption of the following resolution:

SENATE RESOLUTION
8661

By Senators King, Eide, Delvin, Holmquist, McAuliffe, Honeyford, and Brown

WHEREAS, Benjamin A. Soria is retiring after nine years of dedicated and exemplary service as superintendent of the Yakima School District and twenty-one years of service to our state; and

WHEREAS, Ben Soria served in large urban school districts in California and New Mexico before coming to Washington and serving twelve years as deputy superintendent of the Tacoma School District; and

WHEREAS, Ben Soria took a mid-career break to work in private enterprise for ten years in Oakland, California, as vice president and chief administrative officer for BCTV, Inc., producing bilingual education programs for children and gaining experience which would serve him well as a member of the education community; and

WHEREAS, Ben Soria became superintendent of the Yakima School District in 2000 with more than twenty years of successful school administration experience; and

WHEREAS, In the year prior to Ben Soria's arrival fewer than forty percent of fourth graders in Yakima schools met the reading standard on the Washington Assessment of Student Learning, but now the standard is met by more than sixty-five percent; and

WHEREAS, During Ben Soria's time as superintendent the Yakima School District's dropout rate fell from a high of twenty-one percent to six percent, barely more than the state average; and

WHEREAS, Ben Soria, who emigrated from Nogales, Veracruz, Mexico with his family to the state of Kansas when he was nine years old, has been an advocate for young Latinos, especially those who don't speak English; and

WHEREAS, Ben Soria has been a leader in establishing the Ready by Five early learning initiative, supported by the Bill and Melinda Gates Foundation, and has worked to educate state lawmakers about the needs of students from low-income homes and who are Spanish speakers; and

WHEREAS, Ben Soria was named by the Washington Association of School Administrators as "Most Effective Administrator" for large school districts in 2002-03 and Superintendent of the Year for 2006 and was one of four finalists for 2006 National Superintendent of the Year; and

WHEREAS, Ben Soria received the prestigious Eugene T. Carothers Human Relations Award from the National School Public Relations Association in 2007 for his passion and dedication to creating opportunities and eliminating barriers for all students; and

WHEREAS, Ben Soria's leadership has resulted in the Yakima School District receiving national recognition; and

WHEREAS, Ben Soria's dedication, as a native Mexican, to open doors abroad so that future generations of Mexicans can find a better path recently earned him the Ohtli Award from the Consulate of Mexico; and

WHEREAS, Ben Soria and his wife Kathy plan to remain in the Yakima area after his retirement begins July 1st;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize Ben Soria for his service to the students and families of the Yakima School District, his efforts on behalf of Latino students, and his contributions to K-12 education in Washington; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Soria family, the Yakima School District Board of Directors, the Washington Association of School Administrators, and the Consulate of Mexico in Seattle.

Senators King, McAuliffe, Prentice 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. 8661.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Mr. Benjamin Soria and his family who were seated in the gallery.

MOTION

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

MESSAGE FROM THE HOUSE

April 13, 2009

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 5616 with the following amendment: 5616-S AMH ENGR H3074.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28B.67.020 and 2006 c 112 s 3 are each amended to read as follows:

(1) The Washington customized employment training program is hereby created to provide training assistance to employers locating or expanding in the state.

(2)(a) Application to receive funding under this program shall be made to the board in a form and manner as specified by the board. Successful applicants shall receive a training allowance from the board to cover the costs of training at a qualified training institution. Employers may not receive an allowance for training costs which exceed the maximum annual training cost per employee, as established by the board, and are not eligible to receive an allowance or allowances of over five hundred thousand dollars per calendar year.

(b) Allowances shall be granted for applicants who meet the following criteria:

(i) The employer must have entered into an agreement with a qualified training institution to engage in customized training and the employer must agree to: (A) Upon completion of the training, make a payment to the employment training finance account created in RCW 28B.67.030 in an amount equal to one-quarter of the amount of the training allowance; and (B) over the subsequent eighteen months, make monthly or quarterly payments, as specified in the agreement, to the employment training finance account created in RCW 28B.67.030 in an amount equal to three-quarters of the amount of the training allowance. During calendar years 2009 and 2010, participants may delay payments due under this section for up to eighteen months. The payments into the employment training finance account provided for in this section do not constitute payment to the institution.

(ii) ((~~The employer must ensure that the number of employees an employer has in the state during the calendar year following the completion of the training program will equal the number of employees the employer had in the state in the calendar year preceding the start of the training program plus seventy-five percent of the number of trainees.~~)) When hiring, the employer must make good faith efforts, as determined by the board, to hire from trainees in the participant's training program. The agreement with the qualified training institution provided for in (b)(i) of this subsection shall specify terms for reimbursement or additional payment to the employment training finance account by the employer if the ((~~employment criterion of this subsection is not met~~)) participant does not, when hiring, make good faith efforts to hire from trainees in the participant's training program.

(iii) The training ((~~grant~~)) allowance may not be used to train workers who have been hired as a result of a strike or lockout.

(c) Preference shall be given to employers with fewer than fifty employees.

(d) Preference shall be given to training that leads to transferable skills that are interchangeable among different jobs, employers, or workplaces.

(3) Qualified training institutions may enter into agreements with four-year institutions of higher education, as defined in RCW 28B.10.016, in accordance with the interlocal cooperation act, chapter 39.34 RCW.

(4) The board and qualified training institutions may solicit and receive gifts, grants, funds, fees, and endowments, in trust or otherwise, from tribal, local, federal, or other governmental entities, as well as private sources, for the purpose of providing training allowances under chapter 112, Laws of 2006. All revenue thus solicited and received shall be deposited into the employment training finance account created in RCW 28B.67.030.

(5) Qualified training institutions must make good faith efforts to develop training programs using trainers preferred by participants.

(6) For employers who (a) have requested training under the job skills program created under chapter 28C.04 RCW but are not able to participate in the job skills program because the funds have all been committed, and (b) desire to become participants in the Washington customized employment training program, the board shall ensure a seamless process toward participation.

(7) The board may adopt rules to implement this section.

Sec. 2. RCW 28B.67.030 and 2006 c 112 s 8 are each amended to read as follows:

(1) All payments received from a participant in the Washington customized employment training program created in RCW 28B.67.020 shall be deposited into the employment training finance account, which is hereby created in the custody of the state treasurer. Only the state board for community and technical colleges may authorize expenditures from the account and no appropriation is required for expenditures. The money in the account must be used solely for training allowances under the Washington customized employment training program created in RCW 28B.67.020 and for providing up to seventy-five thousand dollars per year for training, marketing, and facilitation services to increase the use of the program. The deposit of payments under this section from a participant shall cease when the board specifies that the participant has met the monetary obligations of the program.

(2) All revenue solicited and received under the provisions of RCW 28B.67.020(4) shall be deposited into the employment training finance account to provide training allowances.

(3) The definitions in RCW 28B.67.010 apply to this section.

Sec. 3. RCW 82.04.449 and 2006 c 112 s 5 are each amended to read as follows:

In computing the tax imposed under this chapter, a credit is allowed for participants in the Washington customized employment training program created in RCW 28B.67.020. The credit allowed under this section is equal to fifty percent of the value of a participant's payments to the employment training finance account created in RCW 28B.67.030. If a participant in the program does not meet the ((~~qualifications in~~)) requirements of RCW 28B.67.020(2)(b)(ii), the participant must remit to the department the value of any credits taken plus interest. The credit earned by a participant in one calendar year may be carried over to be credited against taxes incurred in a subsequent calendar year. No credit may be allowed for repayment of training allowances received from the Washington customized employment training program on or after July 1, 2016."

Correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Shin moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5616.

Senator Shin spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Shin that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5616.

The motion by Senator Shin carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5616 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5616, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5616, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brandland, Fraser and Regala

SUBSTITUTE SENATE BILL NO. 5616, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 9, 2009

MR. PRESIDENT:
The House has passed SENATE BILL NO. 5629 with the following amendment: 5629 AMH HCW H2958.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 70.54 RCW to read as follows:

(1) To reduce unintended pregnancies, state agencies may apply for sexual health education funding for programs that are medically and scientifically accurate, including, but not limited to, programs on abstinence, the prevention of sexually transmitted diseases, and the prevention of unintended pregnancies. The state shall ensure that such programs:

(a) Are evidence-based;

(b) Use state funds cost-effectively;

(c) Maximize the use of federal matching funds; and

(d) Are consistent with RCW 28A.300.475, the state's healthy youth act, as existing on the effective date of this section.

(2) As used in this section:

(a) "Medically and scientifically accurate" has the same meaning as in RCW 28A.300.475, as existing on the effective date of this section; and

(b) "Evidence-based" means a program that uses practices proven to the greatest extent possible through research in compliance with scientific methods to be effective and beneficial for the target population.

Sec. 2. RCW 74.12.410 and 1997 c 58 s 601 are each amended to read as follows:

(1) At the time of application or reassessment under this chapter the department shall offer or contract for family planning information and assistance, including alternatives to abortion, and any other available locally based ((~~teen~~)) unintended pregnancy prevention programs, to prospective and current recipients of ((~~aid to families with dependent children~~)) temporary assistance for needy families.

(2) The department shall work in cooperation with the superintendent of public instruction to reduce the rate of ((~~illegitimate births and~~)) abortions and unintended pregnancies in Washington state.

(((~~(3) The department of health shall maximize federal funding by timely application for federal funds available under P.L. 104-193 and Title V of the federal social security act, 42 U.S.C. 701 et seq., as amended, for the establishment of qualifying abstinence education and motivation programs. The department of health shall contract, by competitive bid, with entities qualified to provide abstinence education and motivation programs in the state.~~

~~(4) The department of health shall seek and accept local matching funds to the maximum extent allowable from qualified abstinence education and motivation programs.~~

~~(5)(a) For purposes of this section, "qualifying abstinence education and motivation programs" are those bidders with experience in the conduct of the types of abstinence education and motivation programs set forth in Title V of the federal social security act, 42 U.S.C. Sec. 701 et seq., as amended.~~

~~(b) The application for federal funds, contracting for abstinence education and motivation programs and performance of contracts under this section are subject to review and oversight by a joint committee of the legislature, composed of four legislative members, appointed by each of the two caucuses in each house.~~))"

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Keiser moved that the Senate concur in the House amendment(s) to Senate Bill No. 5629.

Senators Keiser and Pflug spoke in favor of the motion.

MOTION

On motion of Senator Eide, Senator Murray was excused.

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate concur in the House amendment(s) to Senate Bill No. 5629.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5629 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5629, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5629, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 33; Nays, 15; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Jarrett, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin

and Tom

Voting nay: Senators Becker, Benton, Carrell, Delvin, Hewitt, Holmquist, Honeyford, Kastama, McCaslin, Morton, Roach, Schoesler, Stevens, Swecker and Zarelli

Excused: Senator Brandland

SENATE BILL NO. 5629, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 8, 2009

MR. PRESIDENT:
The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5651 with the following amendment: 5651-S.E AMH JUDI TANG 080

Strike everything after the enacting clause and insert the following:

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

(1) Dogs are neither a commercial crop nor commodity and should not be indiscriminately or irresponsibly mass produced;

(2) Large-scale dog breeding increases the likelihood that the dogs will be denied their most basic needs including but not limited to: Sanitary living conditions, proper and timely medical care, the ability to move freely at least once per day, and adequate shelter from the elements;

(3) Without proper oversight, large-scale breeding facilities can easily fall below even the most basic standards of humane housing and husbandry;

(4) Current Washington state laws are inadequate regarding the care and husbandry of dogs in large-scale breeding facilities;

(5) No Washington state agency currently regulates large-scale breeding facilities;

(6) The United States department of agriculture does not regulate large-scale breeding facilities that sell dogs directly to the public and thus, such direct-sales breeders are currently exempt from even the minimum care and housing standards outlined in the federal animal welfare act;

(7) Documented conditions at large-scale breeding facilities include unsanitary conditions, potential for soil and groundwater contamination, the spread of zoonotic parasites and infectious diseases, and the sale of sick and dying animals to the public; and

(8) An unfair fiscal burden is placed on city, county, and state taxpayers as well as government agencies and nongovernmental organizations, which are required to care for discarded or abused and neglected dogs from large-scale breeding facilities.

NEW SECTION. **Sec.** 2. A new section is added to chapter 16.52 RCW to read as follows:

(1) A person may not own, possess, control, or otherwise have charge or custody of more than fifty dogs with intact sexual organs over the age of six months at any time.

(2) Any person who owns, possesses, controls, or otherwise has charge or custody of more than ten dogs with intact sexual organs over the age of six months and keeps the dogs in an enclosure for the majority of the day must at a minimum:

(a) Provide space to allow each dog to turn about freely, to stand, sit, and lie down. The dog must be able to lie down while fully extended without the dog's head, tail, legs, face, or feet touching any side of an enclosure and without touching any other dog in the enclosure when all dogs are lying down simultaneously. The interior height of the enclosure must be at least six inches higher than the head of the tallest dog in the enclosure when it is in a normal standing position. Each enclosure must be at least three times the length and width of the longest dog in the enclosure, from tip of nose to base of tail and shoulder blade to shoulder blade.

(b) Provide each dog that is over the age of four months with a minimum of one exercise period during each day for a total of not less than one hour of exercise during such day. Such exercise must include either leash walking or giving the dog access to an enclosure at least four times the size of the minimum allowable enclosure specified in subsection (2)(a) of this section allowing the dog free mobility for the entire exercise period, but may not include use of a cat mill, jenny mill, slat mill, or similar device, unless prescribed by a doctor of veterinary medicine. The exercise requirements in this subsection do not apply to a dog certified by a doctor of veterinary medicine as being medically precluded from exercise.

(c) Maintain adequate housing facilities and primary enclosures that meet the following requirements at a minimum:

(i) Housing facilities and primary enclosures must be kept in a sanitary condition. Housing facilities where dogs are kept must be sufficiently ventilated at all times to minimize odors, drafts, ammonia levels, and to prevent moisture condensation. Housing facilities must have a means of fire suppression, such as functioning fire extinguishers, on the premises and must have sufficient lighting to allow for observation of the dogs at any time of day or night;

(ii) Housing facilities must enable all dogs to remain dry and clean;

(iii) Housing facilities must provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to the dogs;

(iv) Housing facilities must provide sufficient shade to shelter all the dogs housed in the primary enclosure at one time;

(v) A primary enclosure must have floors that are constructed in a manner that protects the dogs' feet and legs from injury;

(vi) Primary enclosures must be placed no higher than forty-two inches above the floor and may not be placed over or stacked on top of another cage or primary enclosure;

(vii) Feces, hair, dirt, debris, and food waste must be removed from primary enclosures at least daily or more often if necessary to prevent accumulation and to reduce disease hazards, insects, pests, and odors; and

(viii) All dogs in the same enclosure at the same time must be compatible, as determined by observation. Animals with a vicious or aggressive disposition must never be placed in an enclosure with another animal, except for breeding purposes. Breeding females in heat may not be in the same enclosure at the same time with sexually mature males, except for breeding purposes. Breeding females and their litters may not be in the same enclosure at the same time with other adult dogs. Puppies under twelve weeks may not be in the same enclosure at the same time with other adult dogs, other than the dam or foster dam unless under immediate supervision.

(d) Provide dogs with easy and convenient access to adequate amounts of clean food and water. Food and water receptacles must be regularly cleaned and sanitized. All enclosures must contain potable water that is not frozen, is substantially free from debris, and is readily accessible to all dogs in the enclosure at all times.

(e) Provide veterinary care without delay when necessary. A dog may not be bred if a veterinarian determines that the animal is unfit for breeding purposes. Only dogs between the ages of twelve months and eight years of age may be used for breeding. Animals requiring euthanasia must be euthanized only by a licensed veterinarian.

(3) A person who violates subsection (1) or (2) of this section is guilty of a gross misdemeanor.

(4) This section does not apply to the following:

(a) A publicly operated animal control facility or animal shelter;

(b) A private, charitable not-for-profit humane society or animal adoption organization;

(c) A veterinary facility;

(d) A retail pet store;

(e) A research institution;
(f) A boarding facility; or
(g) A grooming facility.

(5) Subsection (1) does not apply to a commercial dog breeder licensed, before the effective date of this act, by the United States department of agriculture pursuant to the federal animal welfare act (Title 7 U.S.C. Sec. 2131 et seq.).

(6) For the purposes of this section, the following definitions apply, unless the context clearly requires otherwise:

(a) "Dog" means any member of *Canis lupus familiaris*; and

(b) "Retail pet store" means a commercial establishment that engages in a for-profit business of selling at retail cats, dogs, or other animals to be kept as household pets and is regulated by the United States department of agriculture.

NEW SECTION. **Sec.** 3. This act takes effect January 1, 2010."

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5651.

Senators Kohl-Welles, Schoesler and Pflug spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5651.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5651 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5651, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5651, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 4; Absent, 2; Excused, 0.

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

Voting nay: Senators Hatfield, Holmquist, McCaslin and Morton

Absent: Senators Hargrove and Regala

ENGROSSED SUBSTITUTE SENATE BILL NO. 5651, as amended by the House, 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 p.m., on motion of Senator Eide, the Senate was declared to be recessed until 1:30 p.m..

AFTERNOON SESSION

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

MESSAGE FROM THE HOUSE

April 20, 2009

MR. PRESIDENT:
The Speaker has signed the following:
SUBSTITUTE SENATE BILL NO. 5001,
SENATE BILL NO. 5028,
SENATE BILL NO. 5071,
SENATE BILL NO. 5580,
SENATE BILL NO. 5599,
SENATE BILL NO. 5642,
SENATE BILL NO. 5804,
SUBSTITUTE SENATE BILL NO. 5881,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5901,
SENATE BILL NO. 5909,
SENATE BILL NO. 5976,
SENATE JOINT MEMORIAL NO. 8001,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator McDermott, the Senate reverted to the first order of business.

SUPPLEMENTAL REPORTS OF STANDING COMMITTEES

April 18, 2009

SHB 1751 Prime Sponsor, Committee on Finance: Concerning the time period during which sales and use tax for public facilities in rural counties may be collected. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended by Committee on Agriculture & Rural Economic Development. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Zarelli; Carrell; Hewitt; Hobbs; Honeyford; Keiser; McDermott; Murray; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator McDermott, the measure listed on the Supplemental Committee report was referred to the committee as designated.

MOTION

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

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Keiser moved that Gubernatorial Appointment No. 9049, Rebecca Hille, as a member of the Board of Pharmacy, be confirmed.

Senator Keiser spoke in favor of the motion.

MOTION

On motion of Senator Marr, Senators Brown, Eide, Haugen, Kohl-Welles and Prentice were excused.

APPOINTMENT OF REBECCA HILLE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9049, Rebecca Hille as a member of the Board of Pharmacy.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9049, Rebecca Hille as a member of the Board of Pharmacy and the appointment was confirmed by the following vote: Yeas, 41; Nays, 0; Absent, 4; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Marr, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senators Jacobsen, Jarrett, McAuliffe and Pflug

Excused: Senators Eide, Haugen, Kohl-Welles and Prentice

Gubernatorial Appointment No. 9049, Rebecca Hille, having received the constitutional majority was declared confirmed as a member of the Board of Pharmacy.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Keiser moved that Gubernatorial Appointment No. 9071, Albert J. Linggi, as a member of the Board of Pharmacy, be confirmed.

Senator Keiser spoke in favor of the motion.

MOTION

On motion of Senator Delvin, Senator Pflug was excused.

MOTION

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

APPOINTMENT OF ALBERT J. LINGGI

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9071, Albert J. Linggi as a member of the Board of Pharmacy.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9071, Albert J. Linggi as a member of the Board of Pharmacy and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Eide, Jacobsen, McAuliffe and Pflug

Gubernatorial Appointment No. 9071, Albert J. Linggi, having received the constitutional majority was declared confirmed as a member of the Board of Pharmacy.

REMARKS BY THE PRESIDENT

President Owen: "Before we move on the President would like to acknowledge a very important day today that was inadvertently acknowledged on the wrong day last week. That is, one of our most senior members, Mr. McCaslin and his birthday today. Today is the correct day I believe? Senator McCaslin? For your birthday? Happy Birthday. That's ok. You can go back to sleep now."

PERSONAL PRIVILEGE

Senator McCaslin: "How in the world can I sleep if you keep talking!"

MOTION

At 1:45 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 3:07 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 20, 2009

MR. PRESIDENT:
The House concurred in Senate amendments to the following bills and passed the bills as amended by the Senate:
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1349,
HOUSE BILL NO. 1395,
SUBSTITUTE HOUSE BILL NO. 1740,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1792,
SUBSTITUTE HOUSE BILL NO. 1812,
SUBSTITUTE HOUSE BILL NO. 1816,
HOUSE BILL NO. 1835,
SUBSTITUTE HOUSE BILL NO. 1856,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1879,
SECOND SUBSTITUTE HOUSE BILL NO. 1899,
SUBSTITUTE HOUSE BILL NO. 1943,
SECOND SUBSTITUTE HOUSE BILL NO. 1951,
SUBSTITUTE HOUSE BILL NO. 1957,
ENGROSSED HOUSE BILL NO. 1967,
SUBSTITUTE HOUSE BILL NO. 2003,
HOUSE BILL NO. 2014,
HOUSE BILL NO. 2025,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2049,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2072,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2078,
SUBSTITUTE HOUSE BILL NO. 2079,
SECOND SUBSTITUTE HOUSE BILL NO. 2119,

HOUSE BILL NO. 2129,
SUBSTITUTE HOUSE BILL NO. 2157,
SUBSTITUTE HOUSE BILL NO. 2160,
HOUSE BILL NO. 2199,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2222,
SUBSTITUTE HOUSE BILL NO. 2223,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 20, 2009

MR. PRESIDENT:
The House concurred in Senate amendment to the following bills and passed the bills as amended by the Senate:
SECOND SUBSTITUTE HOUSE BILL NO. 1373,
SUBSTITUTE HOUSE BILL NO. 1793,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2128,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 9, 2009

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 5665 with the following amendment: 5665-S AMH FII H2969.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** This chapter is intended to provide authority for two or more affordable housing entities to participate in a joint self-insurance program covering property or liability risks. This chapter provides affordable housing entities with the exclusive source of authority to jointly self-insure property and liability risks, jointly purchase insurance or reinsurance, and to contract for risk management, claims, and administrative services with other affordable housing entities. This chapter must be liberally construed to grant affordable housing entities maximum flexibility in jointly self-insuring to the extent the self-insurance programs are operated in a safe and sound manner. This chapter is intended to require prior approval for the establishment of every joint self-insurance program. In addition, this chapter is intended to require every joint self- insurance program for affordable housing entities established under this chapter to notify the state of the existence of the program and to comply with the regulatory and statutory standards governing the management and operation of the programs as provided in this chapter. This chapter is not intended to authorize or regulate self-insurance of unemployment compensation under chapter 50.44 RCW or industrial insurance under chapter 51.14 RCW.

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

(1) "Affordable housing" means housing projects in which some of the dwelling units may be purchased or rented on a basis that is affordable to households with an income of eighty percent or less of the county median family income, adjusted for family size.

(2) "Affordable housing entity" means any of the following:

(a) A housing authority created under the laws of this state or another state and any agency or instrumentality of a housing authority including, but not limited to, a legal entity created to conduct a joint self-insurance program for housing authorities that is operating in accordance with chapter 48.62 RCW;

(b) A nonprofit corporation, whether organized under the laws of this state or another state, that is engaged in providing affordable housing and is necessary for the completion, management, or operation of a project because of its access to funding sources that are not available to a housing authority, as described in this section; or

(c) A general or limited partnership or limited liability company, whether organized under the laws of this state or another state, that is engaged in providing affordable housing as defined in this section. A partnership or limited liability company may only be considered an affordable housing entity if a housing authority or nonprofit corporation, as described in this subsection, satisfies any of the following conditions: (i) It has, or has the right to acquire, a financial or ownership interest in the partnership or limited liability company; (ii) it possesses the power to direct management or policies of the partnership or limited liability company; or (iii) it has entered into a contract to lease, manage, or operate the affordable housing owned by the partnership or limited liability company.

(3) "Property and liability risks" includes the risk of property damage or loss sustained by an affordable housing entity and the risk of claims arising from the tortious or negligent conduct or any error or omission of the entity, its officers, employees, agents, or volunteers as a result of which a claim may be made against the entity.

(4) "Self-insurance" means a formal program of advance funding and management of entity financial exposure to a risk of loss that is not transferred through the purchase of an insurance policy or contract.

(5) "State risk manager" means the risk manager of the risk management division within the office of financial management.

NEW SECTION. **Sec. 3.** Prior to the approval of a multistate joint self-insurance program for affordable housing entities, the state risk manager shall adopt rules further clarifying the definitions of "affordable housing" and "affordable housing entity" as defined in section 2 of this act, and the conditions and limitations under which affordable housing entities may participate or be expelled from the joint self-insurance program.

NEW SECTION. **Sec. 4.** (1) The governing body of an affordable housing entity may join or form a self-insurance program together with one or more other affordable housing entities, and may jointly purchase insurance or reinsurance with one or more other affordable housing entities for property and liability risks only as permitted under this chapter. Affordable housing entities may contract for or hire personnel to provide risk management, claims, and administrative services in accordance with this chapter.

(2) The agreement to form a joint self-insurance program may include the organization of a separate legal or administrative entity with powers delegated to the entity. The entity may be a nonprofit corporation, limited liability company, partnership, trust, or other form of entity, whether organized under the laws of this state or another state.

(3) If provided for in the organizational documents, a joint self- insurance program may, in conformance with this chapter:

(a) Contract or otherwise provide for risk management and loss control services;

(b) Contract or otherwise provide legal counsel for the defense of claims and other legal services;

(c) Consult with the state insurance commissioner and the state risk manager;

(d) Jointly purchase insurance and reinsurance coverage in a form and amount as provided for in the organizational documents;

(e) Obligate the program's participants to pledge revenues or contribute money to secure the obligations or pay the expenses of the program, including the establishment of a reserve or fund for coverage; and

(f) Possess any other powers and perform all other functions reasonably necessary to carry out the purposes of this chapter.

(4) Every joint self-insurance program governed by this chapter must appoint the state risk manager as its attorney to receive service of, and upon whom must be served, all legal process issued against the program in this state upon causes of action arising in this state.

(a) Service upon the state risk manager as attorney constitutes service upon the program. Service upon joint self-insurance programs subject to this chapter may only occur by service upon the state risk manager. At the time of service, the plaintiff shall pay to the state risk manager a fee to be set by the state risk manager, taxable as costs in the action.

(b) With the initial filing for approval with the state risk manager, each joint self-insurance program must designate by name and address the person to whom the state risk manager must forward legal process that is served upon him or her. The joint self-insurance program may change this person by filing a new designation.

(c) The appointment of the state risk manager as attorney is irrevocable, binds any successor in interest or to the assets or liabilities of the joint self-insurance program, and remains in effect as long as there is in force in this state any contract made by the joint self-insurance program or liabilities or duties arising from the contract.

(d) The state risk manager shall keep a record of the day and hour of service upon him or her of all legal process. A copy of the process, by registered mail with return receipt requested, must be sent by the state risk manager to the person designated to receive legal process by the joint self-insurance program in its most recent designation filed with the state risk manager. Proceedings must not commence against the joint self-insurance program, and the program must not be required to appear, plead, or answer, until the expiration of forty days after the date of service upon the state risk manager.

NEW SECTION. **Sec. 5.** This chapter does not apply to an affordable housing entity that:

(1) Individually self-insures for property and liability risks; or

(2) Participates in a risk pooling arrangement, including a risk retention group or a risk purchasing group, regulated under chapter 48.92 RCW, or is a captive insurer authorized in its state of domicile.

NEW SECTION. **Sec. 6.** The state risk manager shall adopt rules governing the management and operation of joint self-insurance programs for affordable housing entities that cover property or liability risks. All rules must be appropriate for the type of program and class of risk covered. The state risk manager's rules must include:

(1) Standards for the management, operation, and solvency of joint self-insurance programs, including the necessity and frequency of actuarial analyses and claims audits;

(2) Standards for claims management procedures;

(3) Standards for contracts between joint self-insurance programs and private businesses, including standards for contracts between third-party administrators and programs; and

(4) Standards that preclude housing authorities or other public entities participating in the joint self-insurance program from subsidizing, regardless of the form of subsidy, affordable housing entities that are not housing authorities or public entities. These standards do not apply to the consideration attributable to the ownership interest of a housing authority or public entity in a separate legal or administrative entity organized with respect to the program.

NEW SECTION. **Sec. 7.** Before the establishment of a joint self- insurance program covering property or liability risks by affordable housing entities, the entities must obtain the approval of the state risk manager. The entities proposing the creation of a joint self- insurance program requiring prior approval shall submit a plan of management and operation to the state risk manager that provides at least the following information:

(1) The risk or risks to be covered, including any coverage definitions, terms, conditions, and limitations;

(2) The amount and method of funding the covered risks, including the initial capital and proposed rates and projected premiums;

(3) The proposed claim reserving practices;

(4) The proposed purchase and maintenance of insurance or reinsurance in excess of the amounts retained by the joint self-insurance program;

(5) The legal form of the program including, but not limited to, any articles of incorporation, bylaws, charter, or trust agreement or other agreement among the participating entities;

(6) The agreements with participants in the program defining the responsibilities and benefits of each participant and management;

(7) The proposed accounting, depositing, and investment practices of the program;

(8) The proposed time when actuarial analysis will be first conducted and the frequency of future actuarial analysis;

(9) A designation of the individual to whom service of process must be forwarded by the state risk manager on behalf of the program;

(10) All contracts between the program and private persons providing risk management, claims, or other administrative services;

(11) A professional analysis of the feasibility of the creation and maintenance of the program;

(12) A legal determination of the potential federal and state tax liabilities of the program; and

(13) Any other information required by rule of the state risk manager that is necessary to determine the probable financial and management success of the program or that is necessary to determine compliance with this chapter.

NEW SECTION. **Sec. 8.** An affordable housing entity may participate in a joint self-insurance program covering property or liability risks with similar affordable housing entities from other states if the program satisfies the following requirements:

(1) An ownership interest in the program is limited to some or all of the affordable housing entities of this state and affordable housing entities of other states that are provided insurance by the program;

(2) The participating affordable housing entities of this state and other states shall elect a board of directors to manage the program, a majority of whom must be affiliated with one or more of the participating affordable housing entities;

(3) The program must provide coverage through the delivery to each participating affordable housing entity of one or more written policies affecting insurance of covered risks;

(4) The program must be financed, including the payment of premiums and the contribution of initial capital, in accordance with the plan of management and operation submitted to the state risk manager in accordance with this chapter;

(5) The financial statements of the program must be audited annually by the certified public accountants for the program, and these audited financial statements must be delivered to the state risk manager not more than one hundred twenty days after the end of each fiscal year of the program;

(6) The investments of the program must be initiated only with financial institutions or broker-dealers, or both, doing business in those states in which participating affordable housing entities are located, and these investments must be audited annually by the certified public accountants for the program;

(7) The treasurer of a multistate joint self-insurance program must be designated by resolution of the program and the treasurer must be located in the state of one of the participating entities;

(8) The participating affordable housing entities may have no contingent liabilities for covered claims, other than liabilities for unpaid premiums, if assets of the program are insufficient to cover the program's liabilities; and

(9) The program must obtain approval from the state risk manager in accordance with this chapter and must remain in compliance with this chapter, except if provided otherwise under this section.

NEW SECTION. **Sec. 9.** (1) Within one hundred twenty days of receipt of a plan of management and operation, the state risk manager shall either approve or disapprove of the formation of the joint self- insurance program after reviewing the plan to determine whether the proposed program complies with this chapter and all rules adopted in accordance with this chapter.

(2) If the state risk manager denies a request for approval, the state risk manager shall specify in detail the reasons for denial and the manner in which the program fails to meet the requirements of this chapter or any rules adopted in accordance with this chapter.

(3) If the state risk manager determines that a joint self-insurance program covering property or liability risks is in violation of this chapter or is operating in an unsafe financial condition, the state risk manager may issue and serve upon the program an order to cease and desist from the violation or practice.

(a) The state risk manager shall deliver the order to the appropriate entity or entities directly or mail it to the appropriate entity or entities by certified mail with return receipt requested.

(b) If the program violates the order or has not taken steps to comply with the order after the expiration of twenty days after the cease and desist order has been received by the program, the program is deemed to be operating in violation of this chapter, and the state risk manager shall notify the attorney general of the violation.

(c) After hearing or with the consent of a program governed under this chapter and in addition to or in lieu of a continuation of the cease and desist order, the state risk manager may levy a fine upon the program in an amount not less than three hundred dollars and not more than ten thousand dollars. The order levying the fine must specify the period within which the fine must be fully paid. The period within which the fines must be paid must not be less than fifteen and no more than thirty days from the date of the order. Upon failure to pay the fine when due, the state risk manager shall request the attorney general to bring a civil action on the state risk manager's behalf to collect the fine. The state risk manager shall pay any fine collected to the state treasurer for the account of the general fund.

(4) Each joint self-insurance program approved by the state risk manager shall annually file a report with the state risk manager providing:

(a) Details of any changes in the articles of incorporation, bylaws, charter, or trust agreement or other agreement among the participating affordable housing entities;

(b) Copies of all the insurance coverage documents;

(c) A description of the program structure, including participants' retention, program retention, and excess insurance limits and attachment point;

(d) An actuarial analysis;

(e) A list of contractors and service providers;

(f) The financial and loss experience of the program; and

(g) Other information as required by rule of the state risk manager.

(5) A joint self-insurance program requiring the state risk manager's approval may not engage in an act or practice that in any respect significantly differs from the management and operation plan that formed the basis for the state risk manager's approval of the program unless the program first notifies the state risk manager in writing and obtains the state risk manager's approval. The state risk manager shall approve or disapprove the proposed change within sixty days of receipt of the notice. If the state risk manager denies a requested change, the state risk manager shall specify in detail the reasons for the denial and the manner in which the program would fail to meet the requirements of this chapter or any rules adopted in accordance with this chapter.

NEW SECTION. **Sec. 10.** (1) A joint self-insurance program may by resolution of the program designate a person having experience with investments or financial matters as treasurer of the program. The program must require a bond obtained from a surety company in an amount and under the terms and conditions that the program finds will protect against loss arising from mismanagement or malfeasance in investing and managing program funds. The program may pay the premium on the bond.

(2) All interest and earnings collected on joint self-insurance program funds belong to the program and must be deposited to the program's credit in the proper program account.

NEW SECTION. **Sec. 11.** (1) An employee or official of a participating affordable housing entity in a joint self-insurance program may not directly or indirectly receive anything of value for services rendered in connection with the operation and management of a self-insurance program other than the salary and benefits provided by his or her employer or the reimbursement of expenses reasonably incurred in furtherance of the operation or management of the program. An employee or official of a participating affordable housing entity in a joint self-insurance program may not accept or solicit anything of value for personal benefit or for the benefit of others under circumstances in which it can be reasonably inferred that the employee's or official's independence of judgment is impaired with respect to the management and operation of the program.

(2) RCW 48.30.140, 48.30.150, and 48.30.157 apply to the use of insurance producers by a joint self-insurance program.

NEW SECTION. **Sec. 12.** A joint self-insurance program approved in accordance with this chapter is exempt from insurance premium taxes, fees assessed under chapter 48.02 RCW, chapters 48.32 and 48.32A RCW, business and occupation taxes imposed under chapter 82.04 RCW, and any assigned risk plan or joint underwriting association otherwise required by law. This section does not apply to, and no exemption is provided for, insurance companies issuing policies to cover program risks, and does not apply to or provide an exemption for third-party administrators or insurance producers serving the joint self-insurance program.

NEW SECTION. **Sec. 13.** (1) The state risk manager shall establish and charge an investigation fee in an amount necessary to cover the costs for the initial review and approval of a joint self-insurance program. The fee must accompany the initial submission of the plan of operation and management.

(2) The costs of subsequent reviews and investigations must be charged to the joint self-insurance program being reviewed or investigated in accordance with the actual time and expenses incurred in the review or investigation.

(3) Any program failing to remit its assessment when due is subject to denial of permission to operate or to a cease and desist order until the assessment is paid.

NEW SECTION. **Sec. 14.** (1) Any person who files reports or furnishes other information required under this title, required by the state risk manager under the authority granted under this title, or which is useful to the state risk manager in the administration of this title, is immune from liability in any civil action or suit arising from the filing of any such report or furnishing such information to the state risk manager, unless actual malice, fraud, or bad faith is shown.

(2) The state risk manager and his agents and employees are immune from liability in any civil action or suit arising from the publication of any report or bulletins or arising from dissemination of information related to the official activities of the state risk manager unless actual malice, fraud, or bad faith is shown.

(3) The immunity granted under this section is in addition to any common law or statutory privilege or immunity enjoyed by such person. This section is not intended to abrogate or modify in any way such common law or statutory privilege or immunity.

NEW SECTION. **Sec. 15.** The state risk manager shall take all steps necessary to implement this chapter on January 1, 2010.

NEW SECTION. **Sec. 16.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 17.** This act takes effect January 1, 2010.

NEW SECTION. **Sec. 18.** Sections 1 through 17 of this act constitute a new chapter in Title 48 RCW.

Sec. 19. RCW 48.01.050 and 2003 c 248 s 1 are each amended to read as follows:

"Insurer" as used in this code includes every person engaged in the business of making contracts of insurance, other than a fraternal benefit society. A reciprocal or interinsurance exchange is an "insurer" as used in this code. Two or more hospitals that join and organize as a mutual corporation pursuant to chapter 24.06 RCW for the purpose of insuring or self-insuring against liability claims, including medical liability, through a contributing trust fund are not an "insurer" under this code. Two or more local governmental entities, under any provision of law, that join together and organize to form an organization for the purpose of jointly self-insuring or self-funding are not an "insurer" under this code. Two or more affordable housing entities that join together and organize to form an organization for the purpose of jointly self-insuring or self-funding under chapter 48.-- RCW (the new chapter created in section 18 of this act) are not an "insurer" under this code. Two or more persons engaged in the business of commercial fishing who enter into an arrangement with other such persons for the pooling of funds to pay claims or losses arising out of loss or damage to a vessel or machinery used in the business of commercial fishing and owned by a member of the pool are not an "insurer" under this code."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Berkey moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5665.

Senator Berkey spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Berkey that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5665.

The motion by Senator Berkey carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5665 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5665, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5665, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 4; Absent, 1; Excused, 0.

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

Voting nay: Senators Becker, Carrell, Holmquist and Stevens

Absent: Senator Brown

SUBSTITUTE SENATE BILL NO. 5665, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 9, 2009

MR. PRESIDENT:
The House has passed SENATE BILL NO. 5673 with the following amendment: 5673 AMH MOEL MORI 046

On page 2, line 3, after "organizations" insert "except as provided in subsection (7)(a) of this section"

On page 2, line 7, after "organizations" insert "except as provided in subsection (7)(b) of this section"

On page 4, after line 15, insert the following:

"(7)(a) The requirement that a health maintenance organization obtain a certificate of need under subsection (4)(a) of this section for the construction, development, or other establishment of a hospital does not apply to a health maintenance organization operating a group practice that has been continuously licensed as a health maintenance organization since January 1, 2009;

(b) The requirement that a health maintenance organization obtain a certificate of need under subsection (4)(b) of this section to sell, purchase, or lease a hospital does not apply to a health maintenance organization operating a group practice that has been continuously licensed as a health maintenance organization since January 1, 2009."

On page 6, line 32, after "section" insert "or RCW 70.38.105(7)"

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Keiser moved that the Senate concur in the House amendment(s) to Senate Bill No. 5673.

Senators Keiser and Pflug spoke in favor of the motion.

POINT OF INQUIRY

Senator Roach: "Would the Senator from the thirty-third district yield to a question?"

President Owen: "She does not yield."

PERSONAL PRIVILEGE

Senator Roach: "Mr. President, its kind of hard to, we have books here on the floor that explained what some of these bills are. This one came through a health care committee. Most of the senate members are not on the health care committee. This particular rendition here doesn't give the answer…."

POINT OF ORDER

Senator Eide: "I believe a point of personal privilege is something directly related to the individual and not the bill."

REPLY BY THE PRESIDENT

President Owen: "Senator Roach, you really are venturing off into the procedures of the Senate not a point of personal privilege. Senator Roach, I've said what I've said."

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate concur in the House amendment(s) to Senate Bill No. 5673.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5673 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5673, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5673, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 42; Nays, 6; Absent, 1; Excused, 0.

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

Voting nay: Senators Becker, Benton, Carrell, Holmquist, Morton and Roach

Absent: Senator Brown

SENATE BILL NO. 5673, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 16, 2009

MR. PRESIDENT:
The House has passed SENATE BILL NO. 5354 with the following amendment: 5354 AMH LGH H2963.1

Beginning on page 1, line 18, after "islands" strike all material through "boundaries" on page 2, line 4, and insert "that receives medical services from a hospital district, but is prevented by geography and the absence of contiguous boundaries from annexing to that district"

Beginning on page 2, line 16, strike all of section 3 and insert the following:

"NEW SECTION. **Sec. 3.** ESTABLISHING A PUBLIC HOSPITAL CAPITAL FACILITY AREA--BALLOT PROPOSITIONS. (1)(a) Upon receipt of a completed petition to both establish a public hospital capital facility area and submit a ballot proposition under section 7 of this act to finance public hospital capital facilities and other capital health care facilities, the legislative authority of the county in which a proposed public hospital capital facility area is to be established shall submit separate ballot propositions to voters to authorize establishing the proposed public hospital capital facility area and authorizing the public hospital capital facility area, if established, to finance public hospital capital facilities or other capital health care facilities by issuing general indebtedness and imposing excess levies to retire the indebtedness. A petition submitted under this section must be accompanied by a written request to establish a public hospital capital facility area that is signed by a majority of the commissioners of the public hospital district serving the proposed area.

(b) The ballot propositions must be submitted to voters of the proposed public hospital capital facility area at a general or special election. If the proposed election date is not a general election, the county legislative authority is encouraged to request an election when another unit of local government with territory located in the proposed public hospital capital facility area is already holding a special election under RCW 29A.04.330. Approval of the ballot proposition to create a public hospital capital facility area requires a sixty percent affirmative vote by the voters participating in the election.

(2) A completed petition submitted under this section must include:

(a) A description of the boundaries of the public hospital capital facility area; and

(b) A copy of a resolution of the legislative authority of each city, town, and hospital district with territory in the proposed public hospital capital facility area indicating both: (i) Approval of the creation of the proposed public hospital capital facility area; and (ii) agreement on how election costs will be paid for ballot propositions to voters that authorize the public hospital capital facility area to incur general indebtedness and impose excess levies to retire the general indebtedness."

On page 3, line 16, after "facility" insert "area"

On page 3, line 21, after "proposed" strike "district" and insert "public hospital capital facility area"

On page 5, at the beginning of line 36, strike "chapter 70.44 RCW" and insert "this chapter"

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Fairley moved that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 5354 and ask the House to recede therefrom.

Senators Fairley spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Fairley that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 5354 and ask the House to recede therefrom.

The motion by Senator Fairley carried and the Senate refused to concur in the House amendment(s) to Senate Bill No. 5354 and asked the House to recede therefrom by voice vote.

MOTION

On motion of Senator Kauffman, Senator Brown was excused.

MESSAGE FROM THE HOUSE

April 17, 2009

MR. PRESIDENT:
The House has passed SECOND SUBSTITUTE SENATE BILL NO. 5433 with the following amendment: 5433-S2 AMH ENGR H3322.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 82.14.450 and 2007 c 380 s 1 are each amended to read as follows:

(1) A county legislative authority may submit an authorizing proposition to the county voters at a primary or general election and, if the proposition is approved by a majority of persons voting, impose a sales and use tax in accordance with the terms of this chapter. The title of each ballot measure must clearly state the purposes for which the proposed sales and use tax will be used. Funds raised under this tax shall not supplant existing funds used for these purposes, except as follows: Up to one

hundred percent may be used to supplant existing funding in calendar year 2010; up to eighty percent may be used to supplant existing funding in calendar year 2011; up to sixty percent may be used to supplant existing funding in calendar year 2012; up to forty percent may be used to supplant existing funding in calendar year 2013; and up to twenty percent may be used to supplant existing funding in calendar year 2014. For purposes of this subsection, existing funds means the actual operating expenditures for the calendar year in which the ballot measure is approved by voters. Actual operating expenditures excludes lost federal funds, lost or expired state grants or loans, extraordinary events not likely to reoccur, changes in contract provisions beyond the control of the county or city receiving the services, and major nonrecurring capital expenditures. The rate of tax under this section ((~~shall~~)) may not exceed three-tenths of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(2) The tax authorized in this section is in addition to any other taxes authorized by law and ((~~shall~~)) must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county.

(3) The retail sale or use of motor vehicles, and the lease of motor vehicles for up to the first thirty-six months of the lease, are exempt from tax imposed under this section.

(4) One-third of all money received under this section ((~~shall~~)) must be used solely for criminal justice purposes, fire protection purposes, or both. For the purposes of this subsection, "criminal justice purposes" ((~~means additional police protection, mitigation of congested court systems, or relief of overcrowded jails or other local correctional facilities~~)) has the same meaning as provided in RCW 82.14.340.

(5) Money received under this section ((~~shall~~)) must be shared between the county and the cities as follows: Sixty percent ((~~shall~~)) must be retained by the county and forty percent ((~~shall~~)) must be distributed on a per capita basis to cities in the county.

Sec. 2. RCW 82.14.460 and 2008 c 157 s 2 are each amended to read as follows:

(1) A county legislative authority may authorize, fix, and impose a sales and use tax in accordance with the terms of this chapter.

(2) The tax authorized in this section shall be in addition to any other taxes authorized by law and shall be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county. The rate of tax shall equal one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(3) Moneys collected under this section shall be used solely for the purpose of providing for the operation or delivery of ((~~new or expanded~~)) chemical dependency or mental health treatment programs and services and for the operation or delivery of ((~~new or expanded~~)) therapeutic court programs and services. For the purposes of this section, "programs and services" includes, but is not limited to, treatment services, case management, and housing that are a component of a coordinated chemical dependency or mental health treatment program or service.

(4) All moneys collected under this section must be used solely for the purpose of providing new or expanded programs and services as provided in this section, except a portion of moneys collected under this section ((~~shall not~~)) may be used to supplant existing funding for these purposes((~~, provided that~~)) in any county as follows: Up to fifty percent may be used to supplant existing funding in calendar year 2010; up to forty percent may be used to supplant existing funding in calendar year 2011; up to thirty percent may be used to supplant existing funding in calendar year 2012; up to twenty percent may be used to supplant existing funding in calendar year 2013; and up to ten percent may be used to supplant existing funding in calendar year 2014.

(5) Nothing in this section ((~~shall~~)) may be interpreted to prohibit the use of moneys collected under this section for the replacement of lapsed federal funding previously provided for the operation or delivery of services and programs as provided in this section.

Sec. 3. RCW 84.55.050 and 2008 c 319 s 1 are each amended to read as follows:

(1) Subject to any otherwise applicable statutory dollar rate limitations, regular property taxes may be levied by or for a taxing district in an amount exceeding the limitations provided for in this chapter if such levy is authorized by a proposition approved by a majority of the voters of the taxing district voting on the proposition at a general election held within the district or at a special election within the taxing district called by the district for the purpose of submitting such proposition to the voters. Any election held pursuant to this section shall be held not more than twelve months prior to the date on which the proposed levy is to be made, except as provided in subsection (2) of this section. The ballot of the proposition shall state the dollar rate proposed and shall clearly state the conditions, if any, which are applicable under subsection (4) of this section.

(2)(a) Subject to statutory dollar limitations, a proposition placed before the voters under this section may authorize annual increases in levies for multiple consecutive years, up to six consecutive years, during which period each year's authorized maximum legal levy shall be used as the base upon which an increased levy limit for the succeeding year is computed, but the ballot proposition must state the dollar rate proposed only for the first year of the consecutive years and must state the limit factor, or a specified index to be used for determining a limit factor, such as the consumer price index, which need not be the same for all years, by which the regular tax levy for the district may be increased in each of the subsequent consecutive years. Elections for this purpose must be held at a primary or general election. The title of each ballot measure must state the limited purposes for which the proposed annual increases during the specified period of up to six consecutive years shall be used((~~, and funds raised under the levy shall not supplant existing funds used for these purposes~~)).

(b)(i) Except as otherwise provided in this subsection (2)(b), funds raised by a levy under this subsection may not supplant existing funds used for the limited purpose specified in the ballot title. For purposes of this subsection, existing funds means the actual operating expenditures for the calendar year in which the ballot measure is approved by voters. Actual operating expenditures excludes lost federal funds, lost or expired state grants or loans, extraordinary events not likely to reoccur, changes in contract provisions beyond the control of the taxing district receiving the services, and major nonrecurring capital expenditures.

(ii) The supplanting limitations in (b)(i) of this subsection do not apply to levies approved by the voters in calendar years 2009, 2010, and 2011, in any county with a population of one million five hundred thousand or more. This subsection (2)(b)(ii) only applies to levies approved by the voters after the effective date of this act.

(iii) The supplanting limitations in (b)(i) of this subsection do not apply to levies approved by the voters in calendar year 2009 and thereafter in any county with a population less than one million five hundred thousand. This subsection (2)(b)(iii) only applies to levies approved by the voters after the effective date of this act.

(3) After a levy authorized pursuant to this section is made, the dollar amount of such levy may not be used for the purpose of computing the limitations for subsequent levies provided for in this chapter, unless the ballot proposition expressly states that the levy made under this section will be used for this purpose.

(4) If expressly stated, a proposition placed before the voters under subsection (1) or (2) of this section may:

(a) Use the dollar amount of a levy under subsection (1) of this section, or the dollar amount of the final levy under subsection (2) of this section, for the purpose of computing the limitations for subsequent levies provided for in this chapter;

(b) Limit the period for which the increased levy is to be made under (a) of this subsection;

(c) Limit the purpose for which the increased levy is to be made under (a) of this subsection, but if the limited purpose includes making redemption payments on bonds, the period for which the increased levies are made shall not exceed nine years;

(d) Set the levy or levies at a rate less than the maximum rate allowed for the district; or

(e) Include any combination of the conditions in this subsection.

(5) Except as otherwise expressly stated in an approved ballot measure under this section, subsequent levies shall be computed as if:

(a) The proposition under this section had not been approved; and

(b) The taxing district had made levies at the maximum rates which would otherwise have been allowed under this chapter during the years levies were made under the proposition.

Sec. 4. RCW 36.54.130 and 2007 c 223 s 6 are each amended to read as follows:

(1) To carry out the purposes for which ferry districts are created, the governing body of a ferry district may levy each year an ad valorem tax on all taxable property located in the district not to exceed seventy-five cents per thousand dollars of assessed value, except a ferry district in a county with a population of one million five hundred thousand or more may not levy at a rate that exceeds seven and one-half cents per thousand dollars of assessed value. The levy must be sufficient for the provision of ferry services as shown to be required by the budget prepared by the governing body of the ferry district.

(2) A tax imposed under this section may be used only for:

(a) Providing ferry services, including the purchase, lease, or rental of ferry vessels and dock facilities;

(b) The operation, maintenance, and improvement of ferry vessels and dock facilities;

(c) Providing shuttle services between the ferry terminal and passenger parking facilities, and other landside improvements directly related to the provision of passenger-only ferry service; and

(d) Related personnel costs.

NEW SECTION. **Sec. 5.** A new section is added to chapter 84.52 RCW to read as follows:

(1) A county with a population of one million five hundred thousand or more may impose an additional regular property tax levy in an amount not to exceed seven and one-half cents per thousand dollars of the assessed value of property in the county in accordance with the terms of this section.

(2) Any tax imposed under this section shall be used as follows:

(a) The first one cent for expanding transit capacity along state route number 520 by adding core and other supporting bus routes;

(b) The remainder for transit-related expenditures.

(3) The limitations in RCW 84.52.043 do not apply to the tax authorized in this section.

(4) The limitation in RCW 84.55.010 does not apply to the first tax levy imposed under this section.

Sec. 6. RCW 84.52.043 and 2005 c 122 s 3 are each amended to read as follows:

Within and subject to the limitations imposed by RCW 84.52.050 as amended, the regular ad valorem tax levies upon real and personal property by the taxing districts hereafter named shall be as follows:

(1) Levies of the senior taxing districts shall be as follows: (a) The levy by the state shall not exceed three dollars and sixty cents per thousand dollars of assessed value adjusted to the state equalized value in accordance with the indicated ratio fixed by the state department of revenue to be used exclusively for the support of the common schools; (b) the levy by any county shall not exceed one dollar and eighty cents per thousand dollars of assessed value; (c) the levy by any road district shall not exceed two dollars and twenty-five cents per thousand dollars of assessed value; and (d) the levy by any city or town shall not exceed three dollars and thirty-seven and one-half cents per thousand dollars of assessed value. However any county is hereby authorized to increase its levy from one dollar and eighty cents to a rate not to exceed two dollars and forty-seven and one-half cents per thousand dollars of assessed value for general county purposes if the total levies for both the county and any road district within the county do not exceed four dollars and five cents per thousand dollars of assessed value, and no other taxing district has its levy reduced as a result of the increased county levy.

(2) The aggregate levies of junior taxing districts and senior taxing districts, other than the state, shall not exceed five dollars and ninety cents per thousand dollars of assessed valuation. The term "junior taxing districts" includes all taxing districts other than the state, counties, road districts, cities, towns, port districts, and public utility districts. The limitations provided in this subsection shall not apply to: (a) Levies at the rates provided by existing law by or for any port or public utility district; (b) excess property tax levies authorized in Article VII, section 2 of the state Constitution; (c) levies for acquiring conservation futures as authorized under RCW 84.34.230; (d) levies for emergency medical care or emergency medical services imposed under RCW 84.52.069; (e) levies to finance affordable housing for very low-income housing imposed under RCW 84.52.105; (f) the portions of levies by metropolitan park districts that are protected under RCW 84.52.120; (g) levies imposed by ferry districts under RCW 36.54.130; (h) levies for criminal justice purposes under RCW 84.52.135; ((~~and~~)) (i) the portions of levies by fire protection districts that are protected under RCW 84.52.125; and (j) levies by counties for transit-related purposes under section 5 of this act.

Sec. 7. RCW 84.52.010 and 2007 c 54 s 26 are each amended to read as follows:

Except as is permitted under RCW 84.55.050, all taxes shall be levied or voted in specific amounts.

The rate percent of all taxes for state and county purposes, and purposes of taxing districts coextensive with the county, shall be determined, calculated and fixed by the county assessors of the respective counties, within the limitations provided by law, upon the assessed valuation of the property of the county, as shown by the completed tax rolls of the county, and the rate percent of all taxes levied for purposes of taxing districts within any county shall be determined, calculated and fixed by the county assessors of the respective counties, within the limitations provided by law, upon the assessed valuation of the property of the taxing districts respectively.

When a county assessor finds that the aggregate rate of tax levy on any property, that is subject to the limitations set forth in RCW 84.52.043 or 84.52.050, exceeds the limitations provided in either of these sections, the assessor shall recompute and establish a consolidated levy in the following manner:

(1) The full certified rates of tax levy for state, county, county road district, and city or town purposes shall be extended on the tax rolls in amounts not exceeding the limitations established by law; however any state levy shall take precedence over all other levies and shall not be reduced for any purpose other than that required by RCW 84.55.010. If, as a result of the levies imposed under RCW 36.54.130, 84.34.230, 84.52.069, 84.52.105, the portion of the levy by a metropolitan park district that was protected under RCW 84.52.120, 84.52.125, ((~~and~~)) 84.52.135, and section 5 of this act, the combined rate of regular property tax levies that are subject to the one percent limitation exceeds one percent of the true and fair value of any property, then these levies shall be reduced as follows:

(a) The levy imposed by a county under section 5 of this act shall be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or shall be eliminated;

(b) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the portion of the levy by a fire protection district that is protected under RCW 84.52.125 shall be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or shall be eliminated;

((~~(b)~~)) (c) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a county under RCW 84.52.135 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

((~~(c)~~)) (d) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a ferry district under RCW 36.54.130 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

((~~(d)~~)) (e) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the portion of the levy by a metropolitan park district that is protected under RCW 84.52.120 shall be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or shall be eliminated;

((~~(e)~~)) (f) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, then the levies imposed under RCW 84.34.230, 84.52.105, and any portion of the levy imposed under RCW 84.52.069 that is in excess of thirty cents per thousand dollars of assessed value, shall be reduced on a pro rata basis until the combined rate no longer exceeds one percent of the true and fair value of any property or shall be eliminated; and

((~~(f)~~)) (g) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, then the thirty cents per thousand dollars of assessed value of tax levy imposed under RCW 84.52.069 shall be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or eliminated.

(2) The certified rates of tax levy subject to these limitations by all junior taxing districts imposing taxes on such property shall be reduced or eliminated as follows to bring the consolidated levy of taxes on such property within the provisions of these limitations:

(a) First, the certified property tax levy rates of those junior taxing districts authorized under RCW 36.68.525, 36.69.145, 35.95A.100, and 67.38.130 shall be reduced on a pro rata basis or eliminated;

(b) Second, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of flood control zone districts shall be reduced on a pro rata basis or eliminated;

(c) Third, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of all other junior taxing districts, other than fire protection districts, regional fire protection service authorities, library districts, the first fifty cent per thousand dollars of assessed valuation levies for metropolitan park districts, and the first fifty cent per thousand dollars of assessed valuation levies for public hospital districts, shall be reduced on a pro rata basis or eliminated;

(d) Fourth, if the consolidated tax levy rate still exceeds these limitations, the first fifty cent per thousand dollars of assessed valuation levies for metropolitan park districts created on or after January 1, 2002, shall be reduced on a pro rata basis or eliminated;

(e) Fifth, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates authorized to fire protection districts under RCW 52.16.140 and 52.16.160 and regional fire protection service authorities under RCW 52.26.140(1) (b) and (c) shall be reduced on a pro rata basis or eliminated; and

(f) Sixth, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates authorized for fire protection districts under RCW 52.16.130, regional fire protection service authorities under RCW 52.26.140(1)(a), library districts, metropolitan park districts created before January 1, 2002, under their first fifty cent per thousand dollars of assessed valuation levy, and public hospital districts under their first fifty cent per thousand dollars of assessed valuation levy, shall be reduced on a pro rata basis or eliminated.

NEW SECTION. **Sec. 8.** A new section is added to chapter 82.80 RCW to read as follows:

(1) Subject to voter approval, a public transportation entity may fix and impose an annual congestion reduction tax, not to exceed twenty dollars per vehicle registered within the boundaries of the public transportation entity, for each vehicle subject to license tab fees under RCW 46.16.0621 and for each vehicle subject to gross weight fees under RCW 46.16.070 with an unladen weight of six thousand pounds or less. For purposes of this section, a "public transportation entity" includes public transportation benefit areas under chapter 36.57A RCW, metropolitan municipal corporations providing public transportation services under chapter 36.56 or 35.58 RCW, city-owned transit systems under chapter 35.58 RCW, county public transportation authorities under chapter 36.57 RCW, unincorporated transportation benefit areas under chapter 36.57 RCW, and regional transit authorities under chapter 81.112 RCW.

(2) The department of licensing must administer and collect the tax for the relevant public transportation entity identified in subsection (1) of this section. The department of licensing must deduct a percentage amount, as provided by contract, not to exceed one percent of the taxes collected, for administration and collection expenses incurred by it. The department of licensing must remit remaining proceeds to the custody of the state treasurer. The state treasurer must distribute the proceeds to the public transportation entity on a monthly basis.

(3) No tax under this section may be collected until six months after it has been approved by a majority of the voters within the public transportation entity's boundaries.

(4) The congestion reduction tax under this section applies only when renewing a vehicle registration, and is effective upon the registration renewal date as provided by the department of licensing.

(5) The following vehicles are exempt from the tax under this section:

(a) Farm tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181;

(b) Off-road and nonhighway vehicles as defined in RCW 46.09.020;

(c) Vehicles registered under chapter 46.87 RCW and the international registration plan; and

(d) Snowmobiles as defined in RCW 46.10.010.

NEW SECTION. **Sec. 9.** A new section is added to chapter 36.57A RCW to read as follows:

In addition to other general and specific powers granted to a public transportation benefit area authority, the legislative authority of a public transportation benefit area may submit an authorizing proposition to the voters and if approved may impose an annual congestion reduction tax in accordance with section 8 of this act. The proposition must include a specific description of the public transportation services or improvements that will be funded by the congestion reduction tax.

NEW SECTION. **Sec. 10.** A new section is added to chapter 35.58 RCW to read as follows:

In addition to other general and specific powers granted to metropolitan municipal corporations and city-owned transit systems, the legislative authorities of metropolitan municipal corporations and city-owned transit systems may submit an authorizing proposition to the voters within their respective boundaries and if approved may impose an annual congestion reduction tax in accordance with section 8 of this act. The proposition must include a specific description of the public transportation services or improvements that will be funded by the congestion reduction tax.

NEW SECTION. **Sec. 11.** A new section is added to chapter 36.57 RCW to read as follows:

In addition to other general and specific powers granted to county public transportation authorities and unincorporated transportation benefit areas, the legislative authorities of a county public transportation authority and an unincorporated transportation benefit area may submit an authorizing proposition to the voters within their respective boundaries and if approved may impose an annual congestion reduction tax in accordance with section 8 of this act. The proposition must include a specific description of the public transportation services or improvements that will be funded by the congestion reduction tax.

NEW SECTION. **Sec. 12.** A new section is added to chapter 81.104 RCW to read as follows:

In addition to other general and specific powers granted to regional transit authorities under this chapter and chapter 81.112 RCW, regional transit authorities may submit an authorizing proposition to the voters and if approved may impose an annual congestion reduction tax in accordance with section 8 of this act. The proposition must include a specific description of the public transportation services or improvements that will be funded by the congestion reduction tax.

NEW SECTION. **Sec. 13.** Sections 1 and 2 of this act expire January 1, 2015."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Regala moved that the Senate refuse to concur in the House amendment(s) to Second Substitute Senate Bill No. 5433 and request of the House a conference thereon.

The President declared the question before the Senate to be motion by Senator Regala that the Senate refuse to concur in the House amendment(s) to Second Substitute Senate Bill No. 5433 and request of the House a conference thereon.

The motion by Senator Regala carried and the Senate refused to concur in the House amendment(s) to Second Substitute Senate Bill No. 5433 and requested of the House a conference thereon by a voice vote.

MESSAGE FROM THE HOUSE

April 8, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5436 with the following amendment: 5436-S AMH HCW H2916.2

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 48.150.010 and 2007 c 267 s 3 are each amended to read as follows:

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

(1) "Direct patient-provider primary care practice" and "direct practice" means a provider, group, or entity that meets the following criteria in (a), (b), (c), and (d) of this subsection:

(a)(i) A health care provider who furnishes primary care services through a direct agreement;

(ii) A group of health care providers who furnish primary care services through a direct agreement; or

(iii) An entity that sponsors, employs, or is otherwise affiliated with a group of health care providers who furnish only primary care services through a direct agreement, which entity is wholly owned by the group of health care providers or is a nonprofit corporation exempt from taxation under section 501(c)(3) of the internal revenue code, and is not otherwise regulated as a health care service contractor, health maintenance organization, or disability insurer under Title 48 RCW. Such entity is not prohibited from sponsoring, employing, or being otherwise affiliated with other types of health care providers not engaged in a direct practice;

(b) Enters into direct agreements with direct patients or parents or legal guardians of direct patients;

(c) Does not accept payment for health care services provided to direct patients from any entity subject to regulation under Title 48 RCW, plans administered under chapter 41.05, 70.47, or 70.47A RCW, or self-insured plans, except as specifically authorized as a pilot site under section 2, chapter . . . (Substitute Senate Bill No. 5891), Laws of 2009; and

(d) Does not provide, in consideration for the direct fee, services, procedures, or supplies such as prescription drugs, hospitalization costs, major surgery, dialysis, high level radiology (CT, MRI, PET scans or invasive radiology), rehabilitation services, procedures requiring general anesthesia, or similar advanced procedures, services, or supplies.

(2) "Direct patient" means a person who is party to a direct agreement and is entitled to receive primary care services under the direct agreement from the direct practice.

(3) "Direct fee" means a fee charged by a direct practice as consideration for being available to provide and providing primary care services as specified in a direct agreement.

(4) "Direct agreement" means a written agreement entered into between a direct practice and an individual direct patient, or the parent or legal guardian of the direct patient or a family of direct patients, whereby the direct practice charges a direct fee as consideration for being available to provide and providing primary care services to the individual direct patient. A direct agreement must (a) describe the specific health care services the direct practice will provide; and (b) be terminable at will upon written notice by the direct patient.

(5) "Health care provider" or "provider" means a person regulated under Title 18 RCW or chapter 70.127 RCW to practice health or health- related services or otherwise practicing health care services in this state consistent with state law.

(6) "Health carrier" or "carrier" has the same meaning as in RCW 48.43.005.

(7) "Primary care" means routine health care services, including screening, assessment, diagnosis, and treatment for the purpose of promotion of health, and detection and management of disease or injury.

(8) "Network" means the group of participating providers and facilities providing health care services to a particular health carrier's health plan or to plans administered under chapter 41.05, 70.47, or 70.47A RCW.

Sec. 2. RCW 48.150.040 and 2007 c 267 s 6 are each amended to read as follows:

(1) Direct practices may not:

(a) Enter into a participating provider contract as defined in RCW 48.44.010 or 48.46.020 with any carrier or with any carrier's contractor or subcontractor, or plans administered under chapter 41.05, 70.47, or 70.47A RCW, to provide health care services through a direct agreement except as set forth in subsection (2) of this section;

(b) Except as provided in RCW 48.150.010(1)(c), submit a claim for payment to any carrier or any carrier's contractor or subcontractor, or plans administered under chapter 41.05, 70.47, or 70.47A RCW, for health care services provided to direct patients as covered by their agreement;

(c) With respect to services provided through a direct agreement, be identified by a carrier or any carrier's contractor or subcontractor, or plans administered under chapter 41.05, 70.47, or 70.47A RCW, as a participant in the carrier's or any carrier's contractor or subcontractor network for purposes of determining network adequacy or being available for selection by an enrollee under a carrier's benefit plan; or

(d) Pay for health care services covered by a direct agreement rendered to direct patients by providers other than the providers in the direct practice or their employees, except as described in subsection (2)(b) of this section.

(2) Direct practices and providers may:

(a) Enter into a participating provider contract as defined by RCW 48.44.010 and 48.46.020 or plans administered under chapter 41.05, 70.47, or 70.47A RCW for purposes other than payment of claims for services provided to direct patients through a direct agreement. Such providers shall be subject to all other provisions of the participating provider contract applicable to participating providers including but not limited to the right to:

(i) Make referrals to other participating providers;

(ii) Admit the carrier's members to participating hospitals and other health care facilities;

(iii) Prescribe prescription drugs; and

(iv) Implement other customary provisions of the contract not dealing with reimbursement of services;

(b) Pay for charges associated with the provision of routine lab and imaging services ((~~provided in connection with wellness physical examinations~~)). In aggregate such payments per year per direct patient are not to exceed fifteen percent of the total annual direct fee charged that direct patient. Exceptions to this limitation may occur in the event of short-term equipment failure if such failure prevents the provision of care that should not be delayed; and

(c) Charge an additional fee to direct patients for supplies, medications, and specific vaccines provided to direct patients that are specifically excluded under the agreement, provided the direct practice notifies the direct patient of the additional charge, prior to their administration or delivery.

Sec. 3. RCW 70.47.060 and 2007 c 259 s 36 are each amended to read as follows:

The administrator has the following powers and duties:

(1) To design and from time to time revise a schedule of covered basic health care services, including physician services, inpatient and outpatient hospital services, prescription drugs and medications, and other services that may be necessary for basic health care. In addition, the administrator may, to the extent that funds are available, offer as basic health plan services chemical dependency services, mental health services and organ transplant services; however, no one service or any combination of these three services shall increase the actuarial value of the basic health plan benefits by more than five percent excluding inflation, as determined by the office of financial management. All subsidized and nonsubsidized enrollees in any participating managed health care system under the Washington basic health plan shall be entitled to receive covered basic health care services in return for premium payments to the plan. The schedule of services shall emphasize proven preventive and primary health care and shall include all services necessary for prenatal, postnatal, and well- child care. However, with respect to coverage for subsidized enrollees who are eligible to receive prenatal and postnatal services through the medical assistance program under chapter 74.09 RCW, the administrator shall not contract for such services except to the extent that such services are necessary over not more than a one-month period in order to maintain continuity of care after diagnosis of pregnancy by the managed care provider. The schedule of services shall also include a separate schedule of basic health care services for children, eighteen years of age and younger, for those subsidized or nonsubsidized enrollees who choose to secure basic coverage through the plan only for their dependent children. In designing and revising the schedule of services, the administrator shall consider the guidelines for assessing health services under the mandated benefits act of 1984, RCW 48.47.030, and such other factors as the administrator deems appropriate.

(2)(a) To design and implement a structure of periodic premiums due the administrator from subsidized enrollees that is based upon gross family income, giving appropriate consideration to family size and the ages of all family members. The enrollment of children shall not require the enrollment of their parent or parents who are eligible for the plan. The structure of periodic premiums shall be applied to subsidized enrollees entering the plan as individuals pursuant to subsection (11) of this section and to the share of the cost of the plan due from subsidized enrollees entering the plan as employees pursuant to subsection (12) of this section.

(b) To determine the periodic premiums due the administrator from subsidized enrollees under RCW 70.47.020(6)(b). Premiums due for foster parents with gross family income up to two hundred percent of the federal poverty level shall be set at the minimum premium amount charged to enrollees with income below sixty-five percent of the federal poverty level. Premiums due for foster parents with gross family income between two hundred percent and three hundred percent of the federal poverty level shall not exceed one hundred dollars per month.

(c) To determine the periodic premiums due the administrator from nonsubsidized enrollees. Premiums due from nonsubsidized enrollees shall be in an amount equal to the cost charged by the managed health care system provider to the state for the plan plus the administrative cost of providing the plan to those enrollees and the premium tax under RCW 48.14.0201.

(d) To determine the periodic premiums due the administrator from health coverage tax credit eligible enrollees. Premiums due from health coverage tax credit eligible enrollees must be in an amount equal to the cost charged by the managed health care system provider to the state for the plan, plus the administrative cost of providing the plan to those enrollees and the premium tax under RCW 48.14.0201. The administrator will consider the impact of eligibility determination by the appropriate federal agency designated by the Trade Act of 2002 (P.L. 107-210) as well as the premium collection and remittance activities by the United States internal revenue service when determining the administrative cost charged for health coverage tax credit eligible enrollees.

(e) An employer or other financial sponsor may, with the prior approval of the administrator, pay the premium, rate, or any other amount on behalf of a subsidized or nonsubsidized enrollee, by arrangement with the enrollee and through a mechanism acceptable to the administrator. The administrator shall establish a mechanism for receiving premium payments from the United States internal revenue service for health coverage tax credit eligible enrollees.

(f) To develop, as an offering by every health carrier providing coverage identical to the basic health plan, as configured on January 1, 2001, a basic health plan model plan with uniformity in enrollee cost-sharing requirements.

(3) To evaluate, with the cooperation of participating managed health care system providers, the impact on the basic health plan of enrolling health coverage tax credit eligible enrollees. The administrator shall issue to the appropriate committees of the legislature preliminary evaluations on June 1, 2005, and January 1, 2006, and a final evaluation by June 1, 2006. The evaluation shall address the number of persons enrolled, the duration of their enrollment, their utilization of covered services relative to other basic health plan enrollees,

and the extent to which their enrollment contributed to any change in the cost of the basic health plan.

(4) To end the participation of health coverage tax credit eligible enrollees in the basic health plan if the federal government reduces or terminates premium payments on their behalf through the United States internal revenue service.

(5) To design and implement a structure of enrollee cost-sharing due a managed health care system from subsidized, nonsubsidized, and health coverage tax credit eligible enrollees. The structure shall discourage inappropriate enrollee utilization of health care services, and may utilize copayments, deductibles, and other cost-sharing mechanisms, but shall not be so costly to enrollees as to constitute a barrier to appropriate utilization of necessary health care services.

(6) To limit enrollment of persons who qualify for subsidies so as to prevent an overexpenditure of appropriations for such purposes. Whenever the administrator finds that there is danger of such an overexpenditure, the administrator shall close enrollment until the administrator finds the danger no longer exists. Such a closure does not apply to health coverage tax credit eligible enrollees who receive a premium subsidy from the United States internal revenue service as long as the enrollees qualify for the health coverage tax credit program.

(7) To limit the payment of subsidies to subsidized enrollees, as defined in RCW 70.47.020. The level of subsidy provided to persons who qualify may be based on the lowest cost plans, as defined by the administrator.

(8) To adopt a schedule for the orderly development of the delivery of services and availability of the plan to residents of the state, subject to the limitations contained in RCW 70.47.080 or any act appropriating funds for the plan.

(9) Except to the extent to be designated as a medical home pilot site as provided in section 2, chapter . . . (Substitute Senate Bill No. 5891), Laws of 2009, to solicit and accept applications from managed health care systems, as defined in this chapter, for inclusion as eligible basic health care providers under the plan for subsidized enrollees, nonsubsidized enrollees, or health coverage tax credit eligible enrollees. The administrator shall endeavor to assure that covered basic health care services are available to any enrollee of the plan from among a selection of two or more participating managed health care systems. In adopting any rules or procedures applicable to managed health care systems and in its dealings with such systems, the administrator shall consider and make suitable allowance for the need for health care services and the differences in local availability of health care resources, along with other resources, within and among the several areas of the state. Contracts with participating managed health care systems shall ensure that basic health plan enrollees who become eligible for medical assistance may, at their option, continue to receive services from their existing providers within the managed health care system if such providers have entered into provider agreements with the department of social and health services.

(10) To receive periodic premiums from or on behalf of subsidized, nonsubsidized, and health coverage tax credit eligible enrollees, deposit them in the basic health plan operating account, keep records of enrollee status, and authorize periodic payments to managed health care systems on the basis of the number of enrollees participating in the respective managed health care systems.

(11) To accept applications from individuals residing in areas served by the plan, on behalf of themselves and their spouses and dependent children, for enrollment in the Washington basic health plan as subsidized, nonsubsidized, or health coverage tax credit eligible enrollees, to give priority to members of the Washington national guard and reserves who served in Operation Enduring Freedom, Operation Iraqi Freedom, or Operation Noble Eagle, and their spouses and dependents, for enrollment in the Washington basic health plan, to establish appropriate minimum-enrollment periods for enrollees as may be necessary, and to determine, upon application and on a reasonable schedule defined by the authority, or at the request of any enrollee, eligibility due to current gross family income for sliding scale premiums. Funds received by a family as part of participation in the adoption support program authorized under RCW 26.33.320 and 74.13.100 through 74.13.145 shall not be counted toward a family's current gross family income for the purposes of this chapter. When an enrollee fails to report income or income changes accurately, the administrator shall have the authority either to bill the enrollee for the amounts overpaid by the state or to impose civil penalties of up to two hundred percent of the amount of subsidy overpaid due to the enrollee incorrectly reporting income. The administrator shall adopt rules to define the appropriate application of these sanctions and the processes to implement the sanctions provided in this subsection, within available resources. No subsidy may be paid with respect to any enrollee whose current gross family income exceeds twice the federal poverty level or, subject to RCW 70.47.110, who is a recipient of medical assistance or medical care services under chapter 74.09 RCW. If a number of enrollees drop their enrollment for no apparent good cause, the administrator may establish appropriate rules or requirements that are applicable to such individuals before they will be allowed to reenroll in the plan.

(12) To accept applications from business owners on behalf of themselves and their employees, spouses, and dependent children, as subsidized or nonsubsidized enrollees, who reside in an area served by the plan. The administrator may require all or the substantial majority of the eligible employees of such businesses to enroll in the plan and establish those procedures necessary to facilitate the orderly enrollment of groups in the plan and into a managed health care system. The administrator may require that a business owner pay at least an amount equal to what the employee pays after the state pays its portion of the subsidized premium cost of the plan on behalf of each employee enrolled in the plan. Enrollment is limited to those not eligible for medicare who wish to enroll in the plan and choose to obtain the basic health care coverage and services from a managed care system participating in the plan. The administrator shall adjust the amount determined to be due on behalf of or from all such enrollees whenever the amount negotiated by the administrator with the participating managed health care system or systems is modified or the administrative cost of providing the plan to such enrollees changes.

(13) To determine the rate to be paid to each participating managed health care system in return for the provision of covered basic health care services to enrollees in the system. Although the schedule of covered basic health care services will be the same or actuarially equivalent for similar enrollees, the rates negotiated with participating managed health care systems may vary among the systems. In negotiating rates with participating systems, the administrator shall consider the characteristics of the populations served by the respective systems, economic circumstances of the local area, the need to conserve the resources of the basic health plan trust account, and other factors the administrator finds relevant.

(14) To monitor the provision of covered services to enrollees by participating managed health care systems in order to assure enrollee access to good quality basic health care, to require periodic data reports concerning the utilization of health care services rendered to enrollees in order to provide adequate information for evaluation, and to inspect the books and records of participating managed health care systems to assure compliance with the purposes of this chapter. In requiring reports from participating managed health care systems, including data on services rendered enrollees, the administrator shall endeavor to minimize costs, both to the managed health care systems and to the plan. The administrator shall coordinate any such reporting requirements with other state agencies, such as the insurance commissioner and the department of health, to minimize duplication of effort.

(15) To evaluate the effects this chapter has on private employer- based health care coverage and to take appropriate measures consistent with state and federal statutes that will discourage the reduction of such coverage in the state.

(16) To develop a program of proven preventive health measures and to integrate it into the plan wherever possible and consistent with this chapter.

(17) To provide, consistent with available funding, assistance for rural residents, underserved populations, and persons of color.

(18) In consultation with appropriate state and local government agencies, to establish criteria defining eligibility for persons confined or residing in government-operated institutions.

(19) To administer the premium discounts provided under RCW 48.41.200(3)(a) (i) and (ii) pursuant to a contract with the Washington state health insurance pool.

(20) To give priority in enrollment to persons who disenrolled from the program in order to enroll in medicaid, and subsequently became ineligible for medicaid coverage.

NEW SECTION. **Sec. 4.** The insurance commissioner shall work with health maintenance organizations under chapter 48.46 RCW to determine how they can operate as a direct practice as defined in RCW 48.150.010. Recommendations for any necessary statutory changes must be submitted to the legislature by December 1, 2009."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Murray moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5436 and ask the House to recede therefrom.

The President declared the question before the Senate to be motion by Senator Murray that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5436 and ask the House to recede therefrom.

The motion by Senator Murray carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 5436 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 14, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5574 with the following amendment: 5574-S AMH CLIB H3232.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Recording device" means an electronic system, and the physical device or mechanism containing the electronic system, that primarily, or incidental to its primary function, preserves or records, in electronic form, data collected by sensors or provided by other systems within a motor vehicle. "Recording device" includes event data recorders, sensing and diagnostic modules, electronic control modules, automatic crash notification systems, geographic information systems, and any other device that records and preserves data that can be accessed related to that motor vehicle. "Recording device" does not include onboard diagnostic systems whose exclusive function is to capture fault codes used to diagnose or service the motor vehicle.

(2) "Owner" means:

(a) A person having all the incidents of ownership, including legal title, of a motor vehicle, whether or not the person lends, rents, or creates a security interest in the motor vehicle;

(b) A person entitled to the possession of a motor vehicle as the purchaser under a security agreement;

(c) A person entitled to possession of a motor vehicle as a lessee pursuant to a written lease agreement for a period of more than three months; or

(d) If a third party requests access to a recording device to investigate a collision, the owner of the motor vehicle at the time the collision occurred.

NEW SECTION. **Sec. 2.** (1) A manufacturer of a motor vehicle sold or leased in this state, that is equipped with one or more recording devices, shall disclose in the owner's manual that the motor vehicle is equipped with one or more recording devices and, if so, the type of data recorded and whether the recording device or devices have the ability to transmit information to a central communications system or other external device.

(2) If a recording device is used as part of a subscription service, the subscription service agreement must disclose the type of information that the device may record or transmit.

(3) A disclosure made in writing is deemed a disclosure in the owner's manual.

(4) If a recording device is to be installed in a vehicle aftermarket, the manufacturer or distributor of the device shall disclose in the product manual the type of information that the device may record and whether the recording device has the ability to transmit information to a central communications system or other external device.

(5) A disclosure made in writing is deemed a disclosure in the product manual.

NEW SECTION. **Sec. 3.** (1) Information recorded or transmitted by a recording device may not be retrieved, downloaded, scanned, read, or otherwise accessed by a person other than the owner of the motor vehicle in which the recording device is installed except:

(a) Upon a court order or pursuant to discovery. Any information recorded or transmitted by a recording device and obtained by a court order or pursuant to discovery is private and confidential and is not subject to public disclosure;

(b) With the consent of the owner, given for a specific instance of access, for any purpose;

(c) For improving motor vehicle safety, including medical research on the human body's reaction to motor vehicle collisions, if the identity of the motor vehicle or the owner or driver of the motor vehicle is not disclosed in connection with the retrieved information;

(d) For determining the need for or facilitating emergency medical response if a motor vehicle collision occurs, provided that the information retrieved is used solely for medical purposes; or

(e) For subscription services pursuant to an agreement in which disclosure required under section 2 of this act has been made, provided that the information retrieved is used solely for the purposes of fulfilling the subscription service.

(2) For the purposes of subsection (1)(c) of this section:

(a) The disclosure of a motor vehicle's vehicle identification number with the last six digits deleted or redacted is not a disclosure of the identity of the owner or driver; and

(b) Retrieved information may only be disclosed to a data processor.

(3) Information that can be associated with an individual and that is recorded or transmitted by a recording device may not be sold to a third party unless the owner of the information explicitly grants permission for the sale.

(4) Any person who violates this section is guilty of a misdemeanor.

NEW SECTION. **Sec. 4.** The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying chapter 19.86 RCW.

A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying chapter 19.86 RCW.

NEW SECTION. **Sec. 5.** A manufacturer of a motor vehicle sold or leased in this state that is equipped with a recording device shall ensure by licensing agreement or other means that a tool or tools are available that are capable of accessing and retrieving the information stored in a recording device. The tool or tools must be commercially available no later than ninety days after the effective date of this section.

Sec. 6. RCW 46.63.020 and 2008 c 282 s 11 are each amended to read as follows:

Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

(1) RCW 46.09.120(2) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;

(2) RCW 46.09.130 relating to operation of nonhighway vehicles;

(3) RCW 46.10.090(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit- forming drugs or in a manner endangering the person of another;

(4) RCW 46.10.130 relating to the operation of snowmobiles;

(5) Chapter 46.12 RCW relating to certificates of ownership and registration and markings indicating that a vehicle has been destroyed or declared a total loss;

(6) RCW 46.16.010 relating to the nonpayment of taxes and fees by failure to register a vehicle and falsifying residency when registering a motor vehicle;

(7) RCW 46.16.011 relating to permitting unauthorized persons to drive;

(8) RCW 46.16.160 relating to vehicle trip permits;

(9) RCW 46.16.381(2) relating to knowingly providing false information in conjunction with an application for a special placard or license plate for disabled persons' parking;

(10) RCW 46.20.005 relating to driving without a valid driver's license;

(11) RCW 46.20.091 relating to false statements regarding a driver's license or instruction permit;

(12) RCW 46.20.0921 relating to the unlawful possession and use of a driver's license;

(13) RCW 46.20.342 relating to driving with a suspended or revoked license or status;

(14) RCW 46.20.345 relating to the operation of a motor vehicle with a suspended or revoked license;

(15) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license, temporary restricted driver's license, or ignition interlock driver's license;

(16) RCW 46.20.740 relating to operation of a motor vehicle without an ignition interlock device in violation of a license notation that the device is required;

(17) RCW 46.20.750 relating to circumventing an ignition interlock device;

(18) RCW 46.25.170 relating to commercial driver's licenses;

(19) Chapter 46.29 RCW relating to financial responsibility;

(20) RCW 46.30.040 relating to providing false evidence of financial responsibility;

(21) RCW 46.37.435 relating to wrongful installation of sunscreening material;

(22) RCW 46.37.650 relating to the sale, resale, distribution, or installation of a previously deployed air bag;

(23) RCW 46.37.671 through 46.37.675 relating to signal preemption devices;

(24) RCW 46.44.180 relating to operation of mobile home pilot vehicles;

(25) RCW 46.48.175 relating to the transportation of dangerous articles;

(26) RCW 46.52.010 relating to duty on striking an unattended car or other property;

(27) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(28) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;

(29) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;

(30) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;

(31) RCW 46.55.035 relating to prohibited practices by tow truck operators;

(32) RCW 46.55.300 relating to vehicle immobilization;

(33) RCW 46.61.015 relating to obedience to police officers, flaggers, or firefighters;

(34) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;

(35) RCW 46.61.022 relating to failure to stop and give identification to an officer;

(36) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;

(37) RCW 46.61.500 relating to reckless driving;

(38) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;

(39) RCW 46.61.503 relating to a person under age twenty-one driving a motor vehicle after consuming alcohol;

(40) RCW 46.61.520 relating to vehicular homicide by motor vehicle;

(41) RCW 46.61.522 relating to vehicular assault;

(42) RCW 46.61.5249 relating to first degree negligent driving;

(43) RCW 46.61.527(4) relating to reckless endangerment of roadway workers;

(44) RCW 46.61.530 relating to racing of vehicles on highways;

(45) RCW 46.61.655(7) (a) and (b) relating to failure to secure a load;

(46) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;

(47) RCW 46.61.740 relating to theft of motor vehicle fuel;

(48) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;

(49) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;

(50) Chapter 46.65 RCW relating to habitual traffic offenders;

(51) RCW 46.68.010 relating to false statements made to obtain a refund;

(52) Section 3 of this act relating to recording device information;

(53) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;

((~~(53)~~)) (54) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

((~~(54)~~)) (55) RCW 46.72A.060 relating to limousine carrier insurance;

((~~(55)~~)) (56) RCW 46.72A.070 relating to operation of a limousine without a vehicle certificate;

((~~(56)~~)) (57) RCW 46.72A.080 relating to false advertising by a limousine carrier;

((~~(57)~~)) (58) Chapter 46.80 RCW relating to motor vehicle wreckers;

((~~(58)~~)) (59) Chapter 46.82 RCW relating to driver's training schools;

((~~(59)~~)) (60) RCW 46.87.260 relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;

((~~(60)~~)) (61) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW.

NEW SECTION. **Sec. 7.** Sections 1 through 5 of this act constitute a new chapter in Title 46 RCW.

NEW SECTION. **Sec. 8.** Sections 1 through 4 and 6 of this act take effect July 1, 2010."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kauffman moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5574 and ask the House to recede therefrom.

MOTION

Senator Holmquist moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5574.

Senator Holmquist spoke in favor of the motion.

Senator Kauffman spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Holmquist that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5574.

The motion by Senator Holmquist failed by voice vote.

The President declared the question before the Senate to be motion by Senator Kauffman that the Senate refuse to concur in the House amendment(s) to, Substitute Senate Bill No. 5574 and ask the House to recede therefrom.

The motion by Senator Kauffman carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 5574 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 8, 2009

MR. PRESIDENT:

The House has passed ENGROSSED SENATE BILL NO. 5617 with the following amendment: 5617.E AMH ELCS H2976.3

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.215.090 and 2007 c 394 s 3 are each amended to read as follows:

(1) The early learning advisory council is established to advise the department on statewide early learning ((~~community needs and progress~~)) issues leading to the building of a comprehensive system of quality early learning programs and services for Washington's children and families by aligning resources, establishing key performance measures, and ensuring children are ready for school.

(2) The council shall work in conjunction with the department to develop a statewide early learning plan that ((~~crosses systems and sectors to promote~~)) guides the department in promoting alignment of private and public sector actions, objectives, and resources, and ((~~to ensure~~)) ensuring school readiness. Beginning August 1, 2009, the plan shall be submitted via electronic file annually to the appropriate committees of the legislature.

(3) The council shall include diverse, statewide representation from public, nonprofit, and for-profit entities. Its membership shall reflect regional, racial, and cultural diversity to adequately represent the needs of all children and families in the state.

(4) Council members shall serve two-year terms. However, to stagger the terms of the council, the initial appointments for twelve of the members shall be for one year. Once the initial one-year to two-year terms expire, all subsequent terms shall be for two years, with the terms expiring on June 30th of the applicable year. The terms shall be staggered in such a way that, where possible, the terms of members representing a specific group do not expire simultaneously. If an appointed member of the council is unable to attend three consecutive council meetings, a replacement representative shall be appointed to serve the remainder of the term of the initial appointee.

(5) The council shall consist of not more than twenty-five members, as follows:

(a) The governor shall appoint at least one representative from each of the following: The department, the office of financial management, the department of social and health services, the department of health, the higher education coordinating board, the workforce training and education coordinating board, and the state board for community and technical colleges;

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

(c) The governor shall appoint at least seven leaders in early childhood education, with at least one representative with experience or expertise in each of the following areas: Children with disabilities, the K-12 system, family day care providers, and child care centers;

(d) Two members of the house of representatives, one from each caucus, and two members of the senate, one from each caucus, to be appointed by the speaker of the house of representatives and the president of the senate, respectively;

(e) Two parents, one of whom serves on the department's parent advisory council, to be appointed by the governor;

(f) Two representatives of the private-public partnership created in RCW 43.215.070, to be appointed by the partnership board;

(g) One representative designated by sovereign tribal governments; and

(h) One representative from the Washington federation of independent schools.

(6) The council shall be cochaired by one representative of a state agency and one nongovernmental member, to be elected by the council for two-year terms.

(7) Each member of the board shall be compensated in accordance with RCW 43.03.240 and reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060.

(8) The department shall provide staff support to the council."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kauffman moved that the Senate refuse to concur in the House amendment(s) to Engrossed Senate Bill No. 5617 and ask the House to recede therefrom.

Senators Kauffman spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Kauffman that the Senate refuse to concur in

the House amendment(s) to Engrossed Senate Bill No. 5617 and ask the House to recede therefrom.

The motion by Senator Kauffman carried and the Senate refused to concur in the House amendment(s) to Engrossed Senate Bill No. 5617 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 14, 2009

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 5777 with the following amendment: 5777-S AMH HCW H2878.2

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 48.41.060 and 2008 c 217 s 47 are each amended to read as follows:

(1) The board shall have the general powers and authority granted under the laws of this state to insurance companies, health care service contractors, and health maintenance organizations, licensed or registered to offer or provide the kinds of health coverage defined under this title. In addition thereto, the board shall:

(a) Designate or establish the standard health questionnaire to be used under RCW 48.41.100 and 48.43.018, including the form and content of the standard health questionnaire and the method of its application. The questionnaire must provide for an objective evaluation of an individual's health status by assigning a discreet measure, such as a system of point scoring to each individual. The questionnaire must not contain any questions related to pregnancy, and pregnancy shall not be a basis for coverage by the pool. The questionnaire shall be designed such that it is reasonably expected to identify the eight percent of persons who are the most costly to treat who are under individual coverage in health benefit plans, as defined in RCW 48.43.005, in Washington state or are covered by the pool, if applied to all such persons;

(b) Obtain from a member of the American academy of actuaries, who is independent of the board, a certification that the standard health questionnaire meets the requirements of (a) of this subsection;

(c) Approve the standard health questionnaire and any modifications needed to comply with this chapter. The standard health questionnaire shall be submitted to an actuary for certification, modified as necessary, and approved at least every ((~~eighteen~~)) thirty-six months. The designation and approval of the standard health questionnaire by the board shall not be subject to review and approval by the commissioner. The standard health questionnaire or any modification thereto shall not be used until ninety days after public notice of the approval of the questionnaire or any modification thereto, except that the initial standard health questionnaire approved for use by the board after March 23, 2000, may be used immediately following public notice of such approval;

(d) Establish appropriate rates, rate schedules, rate adjustments, expense allowances, claim reserve formulas and any other actuarial functions appropriate to the operation of the pool. Rates shall not be unreasonable in relation to the coverage provided, the risk experience, and expenses of providing the coverage. Rates and rate schedules may be adjusted for appropriate risk factors such as age and area variation in claim costs and shall take into consideration appropriate risk factors in accordance with established actuarial underwriting practices consistent with Washington state individual plan rating requirements under RCW 48.44.022 and 48.46.064;

(e)(i) Assess members of the pool in accordance with the provisions of this chapter, and make advance interim assessments as may be reasonable and necessary for the organizational or interim operating expenses. Any interim assessments will be credited as offsets against any regular assessments due following the close of the year.

(ii) Self-funded multiple employer welfare arrangements are subject to assessment under this subsection only in the event that assessments are not preempted by the employee retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq. The arrangements and the commissioner shall initially request an advisory opinion from the United States department of labor or obtain a declaratory ruling from a federal court on the legality of imposing assessments on these arrangements before imposing the assessment. Once the legality of the assessments has been determined, the multiple employer welfare arrangement certified by the insurance commissioner must begin payment of these assessments.

(iii) If there has not been a final determination of the legality of these assessments, then beginning on the earlier of (A) the date the fourth multiple employer welfare arrangement has been certified by the insurance commissioner, or (B) April 1, 2006, the arrangement shall deposit the assessments imposed by this subsection into an interest bearing escrow account maintained by the arrangement. Upon a final determination that the assessments are not preempted by the employee retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq., all funds in the interest bearing escrow account shall be transferred to the board;

(f) Issue policies of health coverage in accordance with the requirements of this chapter;

(g) Establish procedures for the administration of the premium discount provided under RCW 48.41.200(3)(a)(iii);

(h) Contract with the Washington state health care authority for the administration of the premium discounts provided under RCW 48.41.200(3)(a) (i) and (ii);

(i) Set a reasonable fee to be paid to an insurance producer licensed in Washington state for submitting an acceptable application for enrollment in the pool; and

(j) Provide certification to the commissioner when assessments will exceed the threshold level established in RCW 48.41.037.

(2) In addition thereto, the board may:

(a) Enter into contracts as are necessary or proper to carry out the provisions and purposes of this chapter including the authority, with the approval of the commissioner, to enter into contracts with similar pools of other states for the joint performance of common administrative functions, or with persons or other organizations for the performance of administrative functions;

(b) Sue or be sued, including taking any legal action as necessary to avoid the payment of improper claims against the pool or the coverage provided by or through the pool;

(c) Appoint appropriate legal, actuarial, and other committees as necessary to provide technical assistance in the operation of the pool, policy, and other contract design, and any other function within the authority of the pool; and

(d) Conduct periodic audits to assure the general accuracy of the financial data submitted to the pool, and the board shall cause the pool to have an annual audit of its operations by an independent certified public accountant.

(3) Nothing in this section shall be construed to require or authorize the adoption of rules under chapter 34.05 RCW.

Sec. 2. RCW 48.41.100 and 2007 c 259 s 30 are each amended to read as follows:

(1) The following persons who are residents of this state are eligible for pool coverage:

(a) Any person who provides evidence of a carrier's decision not to accept him or her for enrollment in an individual health benefit plan as defined in RCW 48.43.005 based upon, and within ninety days of the receipt of, the results of the standard health questionnaire designated by the board and administered by health carriers under RCW 48.43.018;

(b) Any person who continues to be eligible for pool coverage based upon the results of the standard health

questionnaire designated by the board and administered by the pool administrator pursuant to subsection (3) of this section;

(c) Any person who resides in a county of the state where no carrier or insurer eligible under chapter 48.15 RCW offers to the public an individual health benefit plan other than a catastrophic health plan as defined in RCW 48.43.005 at the time of application to the pool, and who makes direct application to the pool; and

(d) Any medicare eligible person upon providing evidence of a rejection for medical reasons, a requirement of restrictive riders, an up-rated premium, or a preexisting conditions limitation on a medicare supplemental insurance policy under chapter 48.66 RCW, the effect of which is to substantially reduce coverage from that received by a person considered a standard risk by at least one member within six months of the date of application.

(2) The following persons are not eligible for coverage by the pool:

(a) Any person having terminated coverage in the pool unless (i) twelve months have lapsed since termination, or (ii) that person can show continuous other coverage which has been involuntarily terminated for any reason other than nonpayment of premiums. However, these exclusions do not apply to eligible individuals as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. Sec. 300gg-41(b));

(b) Any person on whose behalf the pool has paid out two million dollars in benefits;

(c) Inmates of public institutions and those persons ((~~whose benefits are duplicated under public programs~~)) who become eligible for medical assistance after June 30, 2008, as defined in RCW 74.09.010. However, these exclusions do not apply to eligible individuals as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. Sec. 300gg-41(b));

(d) Any person who resides in a county of the state where any carrier or insurer regulated under chapter 48.15 RCW offers to the public an individual health benefit plan other than a catastrophic health plan as defined in RCW 48.43.005 at the time of application to the pool and who does not qualify for pool coverage based upon the results of the standard health questionnaire, or pursuant to subsection (1)(d) of this section.

(3) When a carrier or insurer regulated under chapter 48.15 RCW begins to offer an individual health benefit plan in a county where no carrier had been offering an individual health benefit plan:

(a) If the health benefit plan offered is other than a catastrophic health plan as defined in RCW 48.43.005, any person enrolled in a pool plan pursuant to subsection (1)(c) of this section in that county shall no longer be eligible for coverage under that plan pursuant to subsection (1)(c) of this section, but may continue to be eligible for pool coverage based upon the results of the standard health questionnaire designated by the board and administered by the pool administrator. The pool administrator shall offer to administer the questionnaire to each person no longer eligible for coverage under subsection (1)(c) of this section within thirty days of determining that he or she is no longer eligible;

(b) Losing eligibility for pool coverage under this subsection (3) does not affect a person's eligibility for pool coverage under subsection (1)(a), (b), or (d) of this section; and

(c) The pool administrator shall provide written notice to any person who is no longer eligible for coverage under a pool plan under this subsection (3) within thirty days of the administrator's determination that the person is no longer eligible. The notice shall: (i) Indicate that coverage under the plan will cease ninety days from the date that the notice is dated; (ii) describe any other coverage options, either in or outside of the pool, available to the person; (iii) describe the procedures for the administration of the standard health questionnaire to determine the person's continued eligibility for coverage under subsection (1)(b) of this section; and (iv) describe the enrollment process for the available options outside of the pool.

(4) The board shall ensure that an independent analysis of the eligibility standards for the pool coverage is conducted, including examining the eight percent eligibility threshold, eligibility for medicaid enrollees and other publicly sponsored enrollees, and the impacts on the pool and the state budget. The board shall report the findings to the legislature by December 1, 2007.

Sec. 3. RCW 48.41.100 and 2008 c 317 s 4 are each amended to read as follows:

(1) The following persons who are residents of this state are eligible for pool coverage:

(a) Any person who provides evidence of a carrier's decision not to accept him or her for enrollment in an individual health benefit plan as defined in RCW 48.43.005 based upon, and within ninety days of the receipt of, the results of the standard health questionnaire designated by the board and administered by health carriers under RCW 48.43.018;

(b) Any person who continues to be eligible for pool coverage based upon the results of the standard health questionnaire designated by the board and administered by the pool administrator pursuant to subsection (3) of this section;

(c) Any person who resides in a county of the state where no carrier or insurer eligible under chapter 48.15 RCW offers to the public an individual health benefit plan other than a catastrophic health plan as defined in RCW 48.43.005 at the time of application to the pool, and who makes direct application to the pool; and

(d) Any medicare eligible person upon providing evidence of a rejection for medical reasons, a requirement of restrictive riders, an up-rated premium, or a preexisting conditions limitation on a medicare supplemental insurance policy under chapter 48.66 RCW, the effect of which is to substantially reduce coverage from that received by a person considered a standard risk by at least one member within six months of the date of application.

(2) The following persons are not eligible for coverage by the pool:

(a) Any person having terminated coverage in the pool unless (i) twelve months have lapsed since termination, or (ii) that person can show continuous other coverage which has been involuntarily terminated for any reason other than nonpayment of premiums. However, these exclusions do not apply to eligible individuals as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. Sec. 300gg-41(b));

(b) Any person on whose behalf the pool has paid out two million dollars in benefits;

(c) Inmates of public institutions, and those persons who become eligible for medical assistance after June 30, 2008, as defined in RCW 74.09.010. However, these exclusions do not apply to eligible individuals as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. Sec. 300gg-41(b));

(d) Any person who resides in a county of the state where any carrier or insurer regulated under chapter 48.15 RCW offers to the public an individual health benefit plan other than a catastrophic health plan as defined in RCW 48.43.005 at the time of application to the pool and who does not qualify for pool coverage based upon the results of the standard health questionnaire, or pursuant to subsection (1)(d) of this section.

(3) When a carrier or insurer regulated under chapter 48.15 RCW begins to offer an individual health benefit plan in a county where no carrier had been offering an individual health benefit plan:

(a) If the health benefit plan offered is other than a catastrophic health plan as defined in RCW 48.43.005, any person enrolled in a pool plan pursuant to subsection (1)(c) of this section in that county shall no longer be eligible for coverage under that plan pursuant to subsection (1)(c) of this

section, but may continue to be eligible for pool coverage based upon the results of the standard health questionnaire designated by the board and administered by the pool administrator. The pool administrator shall offer to administer the questionnaire to each person no longer eligible for coverage under subsection (1)(c) of this section within thirty days of determining that he or she is no longer eligible;

(b) Losing eligibility for pool coverage under this subsection (3) does not affect a person's eligibility for pool coverage under subsection (1)(a), (b), or (d) of this section; and

(c) The pool administrator shall provide written notice to any person who is no longer eligible for coverage under a pool plan under this subsection (3) within thirty days of the administrator's determination that the person is no longer eligible. The notice shall: (i) Indicate that coverage under the plan will cease ninety days from the date that the notice is dated; (ii) describe any other coverage options, either in or outside of the pool, available to the person; (iii) describe the procedures for the administration of the standard health questionnaire to determine the person's continued eligibility for coverage under subsection (1)(b) of this section; and (iv) describe the enrollment process for the available options outside of the pool.

(4) The board shall ensure that an independent analysis of the eligibility standards for the pool coverage is conducted, including examining the eight percent eligibility threshold, eligibility for medicaid enrollees and other publicly sponsored enrollees, and the impacts on the pool and the state budget. The board shall report the findings to the legislature by December 1, 2007.

NEW SECTION. **Sec. 4.** The board of the Washington state health insurance pool shall conduct a study of options for equitable, stable, and broad-based funding sources for the operation of the pool. The board is authorized to solicit funds to conduct the study. The board shall report its findings and recommendations to the appropriate committees of the senate and house of representatives by December 15, 2009.

NEW SECTION. **Sec. 5.** Section 2 of this act takes effect if section 4, chapter 317, Laws of 2008 is null and void on the effective date of this act; otherwise section 2 of this act is null and void.

NEW SECTION. **Sec. 6.** Section 3 of this act takes effect if section 4, chapter 317, Laws of 2008 is in effect on the effective date of this act; otherwise section 3 of this act is null and void."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Keiser moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5777 and request of the House a conference thereon.

Senator Keiser spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Keiser that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5777 and request of the House a conference thereon.

The motion by Senator Keiser carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 5777 and requested of the House a conference thereon by a voice vote.

MESSAGE FROM THE HOUSE

April 14, 2009

MR. PRESIDENT:

The House has passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5809 with the following amendment: 5809-S2.E AMH ENGR H2933.E

Strike everything after the enacting clause and insert the following:

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

(a) This is a time of great economic difficulty for the residents of Washington state;

(b) Education and training provides opportunity for unemployed workers and economically disadvantaged adults to move into living wage jobs and is of critical importance to the current and future prosperity of the residents of Washington state;

(c) Community and technical college workforce training programs, private career schools and colleges, and Washington state apprenticeship and training council-approved apprenticeship programs provide effective and efficient pathways for people to enter high-demand occupations while also meeting the needs of the economy;

(d) The identification of high-demand occupations needs to be based on reliable labor market research; and

(e) Workforce development councils are in a position to provide funding for economically disadvantaged adults and unemployed workers to access training.

(2) Consistent with the intent of the workforce investment act adult and dislocated worker program provisions of the American recovery and reinvestment act of 2009, the legislature intends that individuals who are eligible for services under the workforce investment act adult and dislocated worker programs, or are receiving or have exhausted entitlement to unemployment compensation benefits be provided the opportunity to enroll in training programs to prepare for a high-demand occupation.

Sec. 2. RCW 50.16.010 and 2009 c 4 s 906 are each amended to read as follows:

(1) There shall be maintained as special funds, separate and apart from all public moneys or funds of this state an unemployment compensation fund, an administrative contingency fund, and a federal interest payment fund, which shall be administered by the commissioner exclusively for the purposes of this title, and to which RCW 43.01.050 shall not be applicable.

(2)(a) The unemployment compensation fund shall consist of:

(i) All contributions collected under RCW 50.24.010 and payments in lieu of contributions collected pursuant to the provisions of this title;

(ii) Any property or securities acquired through the use of moneys belonging to the fund;

(iii) All earnings of such property or securities;

(iv) Any moneys received from the federal unemployment account in the unemployment trust fund in accordance with Title XII of the social security act, as amended;

(v) All money recovered on official bonds for losses sustained by the fund;

(vi) All money credited to this state's account in the unemployment trust fund pursuant to section 903 of the social security act, as amended;

(vii) All money received from the federal government as reimbursement pursuant to section 204 of the federal-state extended compensation act of 1970 (84 Stat. 708-712; 26 U.S.C. Sec. 3304); and

(viii) All moneys received for the fund from any other source.

(b) All moneys in the unemployment compensation fund shall be commingled and undivided.

(3)(a) Except as provided in (b) of this subsection, the administrative contingency fund shall consist of:

(i) All interest on delinquent contributions collected pursuant to this title;

(ii) All fines and penalties collected pursuant to the provisions of this title;

(iii) All sums recovered on official bonds for losses sustained by the fund; and

(iv) Revenue received under RCW 50.24.014.

(b) All fees, fines, forfeitures, and penalties collected or assessed by a district court because of the violation of this title or rules adopted under this title shall be remitted as provided in chapter 3.62 RCW.

(c) ((~~During the 2007-2009 biennium~~)) Except as provided in (d) of this subsection, moneys available in the administrative contingency fund, other than money in the special account created under RCW 50.24.014(((~~(1)(a)~~))), shall be expended ((~~as appropriated by the legislature for the (i) cost of the job skills or worker retraining programs at the community and technical colleges and administrative costs at the state board for community and technical colleges, and (ii) reemployment services such as business and project development assistance, local economic development capacity building, and local economic development financial assistance at the department of community, trade, and economic development, and the remaining appropriation~~)) upon the direction of the commissioner, with the approval of the governor, whenever it appears to him or her that such expenditure is necessary solely for:

(i) The proper administration of this title and that insufficient federal funds are available for the specific purpose to which such expenditure is to be made, provided, the moneys are not substituted for appropriations from federal funds which, in the absence of such moneys, would be made available.

(ii) The proper administration of this title for which purpose appropriations from federal funds have been requested but not yet received, provided, the administrative contingency fund will be reimbursed upon receipt of the requested federal appropriation.

(iii) The proper administration of this title for which compliance and audit issues have been identified that establish federal claims requiring the expenditure of state resources in resolution. Claims must be resolved in the following priority: First priority is to provide services to eligible participants within the state; second priority is to provide substitute services or program support; and last priority is the direct payment of funds to the federal government.

(d)(i) During the 2007-2009 biennium, moneys available in the administrative contingency fund, other than money in the special account created under RCW 50.24.014(1)(a), shall be expended as appropriated by the legislature for: (A) The cost of the job skills or worker retraining programs at the community and technical colleges and administrative costs at the state board for community and technical colleges; and (B) reemployment services such as business and project development assistance, local economic development capacity building, and local economic development financial assistance at the department of community, trade, and economic development. The remaining appropriation may be expended as specified in (c) of this subsection.

(ii) During fiscal year 2010, no more than five million dollars of moneys available in the administrative contingency fund, other than money in the special account created under RCW 50.24.014, may be expended as appropriated by the legislature to create incentives for education and training for individuals who are eligible for services under the workforce investment act adult or dislocated worker programs, or are receiving or have exhausted entitlement to unemployment compensation benefits and are enrolled in a training program preparing them for a high-demand occupation pursuant to sections 4 and 5 of this act. The remaining appropriation may be expended as specified in (c) of this subsection.

(4) Money in the special account created under RCW 50.24.014(1)(a) may only be expended, after appropriation, for the purposes specified in this section and RCW 50.62.010, 50.62.020, 50.62.030, 50.24.014, 50.44.053, and 50.22.010.

Sec. 3. RCW 50.24.014 and 2007 c 327 s 2 are each amended to read as follows:

(1)(a) A separate and identifiable account to provide for the financing of special programs to assist the unemployed is established in the administrative contingency fund. All money in this account shall be expended solely for the purposes of this title and for no other purposes whatsoever. Contributions to this account shall accrue and become payable by each employer, except employers as described in RCW 50.44.010 and 50.44.030 who have properly elected to make payments in lieu of contributions, taxable local government employers as described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, at a basic rate of two one-hundredths of one percent. The amount of wages subject to tax shall be determined under RCW 50.24.010.

(b) A separate and identifiable account is established in the administrative contingency fund for financing the employment security department's administrative costs under RCW 50.22.150 and section 4, chapter 3, Laws of 2009 and the costs under RCW 50.22.150(((~~10~~))) (11) and section 4(14), chapter 3, Laws of 2009. All money in this account shall be expended solely for the purposes of this title and for no other purposes whatsoever. Contributions to this account shall accrue and become payable by each employer, except employers as described in RCW 50.44.010 and 50.44.030 who have properly elected to make payments in lieu of contributions, taxable local government employers as described in RCW 50.44.035, those employers who are required to make payments in lieu of contributions, those employers described under RCW 50.29.025(1)(f)(ii), and those qualified employers assigned rate class 20 or rate class 40, as applicable, under RCW 50.29.025, at a basic rate of one one-hundredth of one percent. The amount of wages subject to tax shall be determined under RCW 50.24.010. Any amount of contributions payable under this subsection (1)(b) that exceeds the amount that would have been collected at a rate of four one-thousandths of one percent must be deposited in the account created in (a) of this subsection.

(2)(a) Contributions under this section shall become due and be paid by each employer under rules as the commissioner may prescribe, and shall not be deducted, in whole or in part, from the remuneration of individuals in the employ of the employer. Any deduction in violation of this section is unlawful.

(b) In the payment of any contributions under this section, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(3) If the commissioner determines that federal funding has been increased to provide financing for the services specified in chapter 50.62 RCW, the commissioner shall direct that collection of contributions under this section be terminated on the following January 1st.

NEW SECTION. **Sec. 4.** (1) Subject to the availability of funds through March 1, 2011, funds available under section 2 of this act shall be distributed by the employment security department to workforce development councils as a match to American recovery and reinvestment act formula funds or local workforce investment act funds that workforce development councils provide specifically for the education and training of eligible individuals in high-demand occupations for the purposes identified in section 5(2) of this act.

(a) Funds used to increase capacity as described in section 5(2)(a) of this act shall receive a seventy-five percent match.

(b) Funds used to provide student financial aid described in section 5(2)(b) of this act shall receive a twenty-five percent match.

(2) The governor may direct discretionary funds made available under Title VIII of division A of the American recovery and reinvestment act of 2009 (P.L. 111-5) to be used for the purposes of this section.

(3) Funds available for the purposes identified in section 5(2) of this act but not distributed under subsection (1) of this section shall be allocated to the state board for community and technical colleges March 1, 2011. The board shall only use the funds to increase capacity as described in section 5(2)(a) of this

act. The board shall report to the employment security department on the use of these funds.

(4) The employment security department, in cooperation with the workforce training and education coordinating board and the state board for community and technical colleges, shall develop a set of guidelines on allowable uses for the incentive funds made available under this section. These guidelines shall emphasize training programs that expand the skills for Washington workers in order to obtain and retain jobs in high-demand industries such as those referenced in the American recovery and reinvestment act of 2009.

(5) This section expires July 1, 2011.

NEW SECTION. **Sec. 5.** (1) Consistent with the intent of the workforce investment act adult and dislocated worker program provisions of the American recovery and reinvestment act of 2009, the employment security department shall encourage an increase in education and training through grants and local plan modifications with workforce development councils. The department shall encourage workforce development councils to collaborate with other local recipients of American recovery and reinvestment act funding for the purposes of increasing training and supporting individuals who receive training. The department shall also require workforce development councils to determine the number of participants who will receive education and training in high-demand industries. The department shall require the workforce development councils to report on these efforts to accomplish the tasks described in this subsection.

(2) The employment security department shall use funds as described in section 4 of this act to encourage workforce development councils to use American recovery and reinvestment act and workforce investment act adult and dislocated worker formula resources for the following education and training purposes:

(a) To provide enrollment support or enter into contracts with the community and technical college system to increase capacity for training eligible individuals for high-demand occupations in programs on the eligible training provider list or new programs; and

(b) For the provision of individual training accounts that provide financial aid for eligible students training for high-demand occupations in programs on the eligible training provider list.

(3) American recovery and reinvestment act formula funds described in this section may not be used to replace or supplant any existing enrollments, programs, support services, or funding sources.

(4) The employment security department, in its role as fiscal agent for workforce funds available under the American recovery and reinvestment act, shall monitor and report to the governor on the use of these funds and identify specific actions that the governor or the legislature may take to ensure the state and local workforce development councils are effectively meeting the intent of this act. This shall include such reports as required by the American recovery and reinvestment act of 2009 and the governor.

(5) This section expires July 1, 2011.

NEW SECTION. **Sec. 6.** The employment security department, in collaboration with the workforce training and education coordinating board, workforce development councils, and the state board for community and technical colleges, shall submit a report to the governor and to the appropriate committees of the legislature by December 1, 2010. The report shall describe the implementation of this act, and shall include the following:

(1) The amounts of expenditures on education and training;

(2) The number of students receiving training;

(3) The types of training received by the students;

(4) Training completion and employment rates;

(5) Comparisons of preprogram and postprogram wage levels;

(6) Student demographics and institution/program demographics;

(7) Efforts made to ensure training was provided in areas that would lead to employment;

(8) Efforts to develop capacity in occupations that are of particularly high demand; and

(9) Specific enhancements made in the workforce system to ensure additional training in high-demand occupations is accessible to low-income and dislocated workers.

NEW SECTION. **Sec. 7.** A new section is added to chapter 50.22 RCW to read as follows:

The employment security department shall periodically bring together representatives of the workforce training and education coordinating board, workforce development councils, the state board for community and technical colleges, business, labor, and the legislature to review development and implementation of chapter . . ., Laws of 2009 (this act) and related programs under this chapter.

NEW SECTION. **Sec. 8.** 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."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate refuse to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5809 and ask the House to recede therefrom.

Senators Kohl-Welles spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Kohl-Welles that the Senate refuse to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5809 and ask the House to recede therefrom.

The motion by Senator Kohl-Welles carried and the Senate refused to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5809 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 9, 2009

MR. PRESIDENT:

The House has passed ENGROSSED SENATE BILL NO. 5894 with the following amendment: 5894.E AMH TR H2939.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 81.68.015 and 2007 c 234 s 47 are each amended to read as follows:

This chapter does not apply to corporations or persons, their lessees, trustees, receivers, or trustees appointed by any court whatsoever insofar as they own, control, operate, or manage taxicabs, hotel buses, school buses, or any other carrier that does not come within the term "auto transportation company" as defined in RCW 81.68.010.

This chapter does not apply to persons operating motor vehicles when operated wholly within the limits of incorporated cities or towns, and for a distance not exceeding three road miles beyond the corporate limits of the city or town in Washington in which the original starting point of the vehicle is located, and which operation either alone or in conjunction with another vehicle or vehicles is not a part of any journey beyond the three-mile limit.

This chapter does not apply to commuter ride sharing or ride sharing for persons with special transportation needs in accordance with RCW 46.74.010, so long as the ride-sharing operation does not compete with or infringe upon comparable

service actually being provided before the initiation of the ride-sharing operation by an existing auto transportation company certificated under this chapter.

This chapter does not apply to a service carrying passengers for compensation over any public highway in this state between fixed termini or over a regular route if the commission finds, with or without a hearing, that the service does not serve an essential transportation purpose, is solely for recreation, and would not adversely affect the operations of the holder of a certificate under this chapter, and that exemption from this chapter is otherwise in the public interest. Companies providing these services must, however, obtain a permit under chapter 81.70 RCW.

This chapter does not apply to a service carrying passengers for compensation over any public highway in this state between fixed termini or over a regular route if the commission finds, with or without a hearing, that the service is provided pursuant to a contract with a state agency, or funded by a grant issued by the department of transportation, and that exemption from this chapter is otherwise in the public interest. Companies providing these services must, however, obtain a permit under chapter 81.70 RCW.

Sec. 2. RCW 81.84.010 and 2007 c 234 s 92 are each amended to read as follows:

(1) A commercial ferry may not operate any vessel or ferry for the public use for hire between fixed termini or over a regular route upon the waters within this state, including the rivers and lakes and Puget Sound, without first applying for and obtaining from the commission a certificate declaring that public convenience and necessity require such operation. Service authorized by certificates issued ((~~before or after July 25, 1993,~~)) to a commercial ferry operator must be exercised by the operator in a manner consistent with the conditions established in the certificate ((~~or~~)) and tariff((~~s~~)) filed under chapter 81.28 RCW. However, a certificate is not required for a vessel primarily engaged in transporting freight other than vehicles, whose gross earnings from the transportation of passengers or vehicles, or both, are not more than ten percent of the total gross annual earnings of such vessel.

(2) This section does not affect the right of any county public transportation benefit area or other public agency within this state to construct, condemn, purchase, operate, or maintain, itself or by contract, agreement, or lease, with any person, firm, or corporation, ferries or boats across the waters within this state, including rivers and lakes and Puget Sound, if the operation is not over the same route or between the same districts being served by a certificate holder without first acquiring the rights granted to the certificate holder under the certificate.

((~~(2)~~)) (3) The holder of a certificate of public convenience and necessity granted under this chapter must initiate service within five years of obtaining the certificate, except that the holder of a certificate of public convenience and necessity for passenger-only ferry service in Puget Sound must initiate service within twenty months of obtaining the certificate. The certificate holder shall report to the commission every six months after the certificate is granted on the progress of the certificated route. The reports shall include, but not be limited to, the progress of environmental impact, parking, local government land use, docking, and financing considerations. Except in the case of passenger-only ferry service in Puget Sound, if service has not been initiated within five years of obtaining the certificate, the commission may extend the certificate on a twelve-month basis for up to three years if the six-month progress reports indicate there is significant advancement toward initiating service.

Sec. 3. RCW 81.66.010 and 1996 c 244 s 1 are each amended to read as follows:

The definitions set forth in this section shall apply throughout this chapter, unless the context clearly indicates otherwise.

(1) "Corporation" means a corporation, company, association, or joint stock association.

(2) "Person" means an individual, firm, or a copartnership.

(3) "Private, nonprofit transportation provider" means any private, nonprofit corporation providing transportation services for compensation solely to persons with special transportation needs, or pursuant to a contract with a state agency or funded by a grant issued by the department of transportation.

(4) "Persons with special transportation needs" means those persons, including their personal attendants, who because of physical or mental disability, income status, or age are unable to transport themselves or to purchase appropriate transportation.

Sec. 4. RCW 81.70.220 and 1989 c 163 s 7 are each amended to read as follows:

(1) No person may engage in the business of a charter party carrier or excursion service carrier of persons over any public highway without first having obtained a certificate from the commission to do so or having registered as an interstate carrier.

(2) An auto transportation company carrying passengers for compensation over any public highway in this state between fixed termini or over a regular route that is not required to hold an auto transportation certificate because of a commission finding under RCW 81.68.015 must obtain a certificate under this chapter.

Sec. 5. RCW 46.74.010 and 1997 c 250 s 8 and 1997 c 95 s 1 are each reenacted and amended to read as follows:

The definitions set forth in this section shall apply throughout this chapter, unless the context clearly indicates otherwise.

(1) "Commuter ride sharing" means a car pool or van pool arrangement whereby one or more fixed groups not exceeding fifteen persons each including the drivers, and (a) not fewer than five persons including the drivers, or (b) not fewer than four persons including the drivers where at least two of those persons are confined to wheelchairs when riding, are transported in a passenger motor vehicle with a gross vehicle weight not exceeding ten thousand pounds, excluding special rider equipment, between their places of abode or termini near such places, and their places of employment or educational or other institutions, each group in a single daily round trip where the drivers are also on the way to or from their places of employment or educational or other institution.

(2) "Flexible commuter ride sharing" means a car pool or van pool arrangement whereby a group of at least two but not exceeding fifteen persons including the driver is transported in a passenger motor vehicle with a gross vehicle weight not exceeding ten thousand pounds, excluding special rider equipment, between their places of abode or termini near such places, and their places of employment or educational or other institutions, where the driver is also on the way to or from his or her place of employment or educational or other institution.

(3) "Ride sharing for persons with special transportation needs" means an arrangement whereby a group of persons with special transportation needs, and their attendants, is transported by a public social service agency or a private, nonprofit transportation provider, as defined in RCW 81.66.010(3), serving persons with special needs, in a passenger motor vehicle as defined by the department to include small buses, cutaways, and modified vans not more than twenty-eight feet long: PROVIDED, That the driver need not be a person with special transportation needs.

(4) "Ride-sharing operator" means the person, entity, or concern, not necessarily the driver, responsible for the existence and continuance of commuter ride sharing, flexible commuter ride sharing, or ride sharing for persons with special transportation needs. The term "ride-sharing operator" includes but is not limited to an employer, an employer's agent, an employer-organized association, a state agency, a county, a city, a public transportation benefit area, or any other political subdivision that owns or leases a ride-sharing vehicle.

(5) "Ride-sharing promotional activities" means those activities involved in forming a commuter ride-sharing arrangement or a flexible commuter ride-sharing arrangement, including but not limited to receiving information from existing and prospective ride-sharing participants, sharing that information with other existing and prospective ride-sharing participants, matching those persons with other existing or prospective ride-sharing participants, and making assignments of persons to ride-sharing arrangements.

(6) "Persons with special transportation needs" means those persons defined in RCW 81.66.010(4).

NEW SECTION. **Sec. 6.** (1) Within its existing resources, the utilities and transportation commission shall study the appropriateness of rate and service regulation of commercial ferries operating on Lake Chelan. The commission shall report its findings and recommendations to the legislature by December 31, 2009.

(2) This section expires December 31, 2009."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Jarrett moved that the Senate refuse to concur in the House amendment(s) to Engrossed Senate Bill No. 5894 and ask the House to recede therefrom.

Senators Jarrett spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Jarrett that the Senate refuse to concur in the House amendment(s) to Engrossed Senate Bill No. 5894 and ask the House to recede therefrom.

The motion by Senator Jarrett carried and the Senate refused to concur in the House amendment(s) to Engrossed Senate Bill No. 5894 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 8, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5913 with the following amendment: 5913-S AMH HCW H2880.2

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.70.110 and 2007 c 259 s 11 are each amended to read as follows:

(1) The secretary shall charge fees to the licensee for obtaining a license. After June 30, 1995, municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro rata share of the cost of licensure and inspection, if appropriate. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Except as provided in subsection (3) of this section, fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) License fees shall include amounts in addition to the cost of licensure activities in the following circumstances:

(a) For registered nurses and licensed practical nurses licensed under chapter 18.79 RCW, support of a central nursing resource center as provided in RCW 18.79.202, until June 30, 2013;

(b) For all health care providers licensed under RCW 18.130.040, the cost of regulatory activities for retired volunteer medical worker licensees as provided in RCW 18.130.360; and

(c)(i) For physicians licensed under chapter 18.71 RCW, physician assistants licensed under chapter 18.71A RCW, osteopathic physicians licensed under chapter 18.57 RCW, osteopathic physicians' assistants licensed under chapter 18.57A RCW, naturopaths licensed under chapter 18.36A RCW, podiatrists licensed under chapter 18.22 RCW, chiropractors licensed under chapter 18.25 RCW, psychologists licensed under chapter 18.83 RCW, registered nurses licensed under chapter 18.79 RCW, optometrists licensed under chapter 18.53 RCW, mental health counselors licensed under chapter 18.225 RCW, massage therapists licensed under chapter 18.108 RCW, clinical social workers licensed under chapter 18.225 RCW, and acupuncturists licensed under chapter 18.06 RCW, the license fees shall include up to an additional twenty-five dollars to be transferred by the department to the University of Washington for the purposes of RCW 43.70.112. However, each person subject to this subsection (3)(c) is required to pay only one surcharge of up to twenty-five dollars annually for the purposes of RCW 43.70.112, regardless of how many professional licenses he or she holds. Each year, by December 1st, the department shall provide an annual accounting of the use of the surcharge paid under this subsection, including the amounts paid by each of the professions subject to the surcharge. The accounting must be transmitted by electronic mail to the members of the health care committees of the legislature.

(ii) Annually, beginning within one year after the program begins, the department shall convene a user advisory group to review the online access program under RCW 43.70.112 and make recommendations for improving the program. The work group must include a licensed professional from each of the categories of professionals paying the surcharge under (c)(i) of this subsection, a department representative, and a representative from the University of Washington.

(4) Department of health advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees.

Sec. 2. RCW 43.70.112 and 2007 c 259 s 12 are each amended to read as follows:

Within the amounts transferred from the department of health under RCW 43.70.110(3), the University of Washington shall, through the health sciences library, provide online access to selected vital clinical resources, medical journals, decision support tools, and evidence-based reviews of procedures, drugs, and devices to the health professionals listed in RCW 43.70.110(3)(c). Online access shall be available no later than January 1, 2009. Each year, by December 1st, the University of Washington shall provide an annual accounting of the use of the funds transferred, including which categories of health professionals are using the materials available under the program. The accounting must be transmitted by electronic mail to the members of the health care committees of the legislature."

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Keiser moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5913 and ask the House to recede therefrom.

Senators Keiser and Pflug spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Keiser that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5913 and ask the House to recede therefrom.

The motion by Senator Keiser carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 5913 and asked the House to recede therefrom by voice

vote.

MESSAGE FROM THE HOUSE

April 7, 2009

MR. PRESIDENT:
The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5110 with the following amendment: 5110-S.E AMH CL MOEU 016

On page 1, line 14, after "wine" insert "or beer"

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Honeyford moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5110.

The President declared the question before the Senate to be the motion by Senator Honeyford that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5110.

The motion by Senator Honeyford carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5110 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5110, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5110, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 1; Excused, 0.

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

Voting nay: Senators Hargrove, Haugen and Morton

Absent: Senator Delvin

ENGROSSED SUBSTITUTE SENATE BILL NO. 5110, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Brandland, Senator Delvin was excused.

MESSAGE FROM THE HOUSE

April 13, 2009

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 5719 with the following amendment: 5719-S AMH RODN H2971.2

On page 1, beginning on line 12, strike all of subsection (2) and insert the following:

"(2) The department shall use the model year of a manufactured new vehicle kit and manufactured body kit ((~~is~~)) as the year reflected on the manufacturer's certificate of origin."

On page 4, after line 1, insert the following:

"NEW SECTION. **Sec. 3.** A new section is added to chapter 46.37 RCW to read as follows:

(1) For the purposes of this section:

(a) "Kit vehicle" means a passenger car or light truck assembled from a manufactured kit, and is either (i) a kit consisting of a prefabricated body and chassis used to construct a complete vehicle, or (ii) a kit consisting of a prefabricated body to be mounted on an existing vehicle chassis and drive train, commonly referred to as a donor vehicle. "Kit vehicle" does not include a vehicle that has been assembled by a manufacturer.

(b) "Major component part" includes at least each of the following vehicle parts: (i) Engines and short blocks; (ii) frame; (iii) transmission or transfer case; (iv) cab; (v) door; (vi) front or rear differential; (vii) front or rear clip; (viii) quarter panel; (ix) truck bed or box; (x) seat; (xi) hood; (xii) bumper; (xiii) fender; and (xiv) airbag.

(2) A kit vehicle must, prior to inspection, contain the following components:

(a) Brakes on all wheels. The service brakes, upon application, must be capable of stopping the vehicle within a twelve-foot lane and (i) developing an average tire to road retardation force of not less than 52.8 percent of the gross vehicle weight, (ii) decelerating the vehicle at a rate of not less than seventeen feet per second, or (iii) stopping the vehicle within a distance of twenty-five feet from a speed of twenty miles per hour. Tests musts be made on a level, dry, concrete or asphalt surface free from loose material;

(b) Brake hoses that comply with 49 C.F.R. Sec. 571.106;

(c) Brake fluids that comply with 49 C.F.R. Sec. 571.119;

(d) A parking brake that must operate on at least two wheels on the same axle, and when applied, must be capable of holding the vehicle on any grade on which the vehicle is operated. The parking brake must be separately actuated so that failure of any part of the service brake actuation system will not diminish the vehicle's parking brake holding capability;

(e) Lighting equipment that complies with 49 C.F.R. Sec. 571.108;

(f) Pneumatic tires that comply with 49 C.F.R. Sec. 571.109;

(g) Glazing material that complies with 49 C.F.R. Sec. 571.205. The driver must be provided with a windshield and side windows or opening that allows an outward horizontal vision capability, ninety degrees each side of a vertical plane passing through the fore and aft centerline of the vehicle. This range of vision must not be interrupted by window framing not exceeding four inches in width at each side location;

(h) Seat belt assemblies that comply with 49 C.F.R. Sec. 571.209;

(i) Defroster and defogging devices capable of defogging and defrosting the windshield area, except vehicles or exact replicas of vehicles manufactured prior to January 1938 are exempt from this requirement;

(j) Door latches that firmly and automatically secure the door when pushed closed and that allow each door to be opened both from the inside and outside, if the vehicle is enclosed with side doors leading directly into a compartment that contains one or more seating accommodations;

(k) A floor plan that is capable of supporting the weight of the number of occupants that the vehicle is designed to carry;

(l) If an enclosed kit vehicle powered by an internal combustion engine, a passenger compartment that must be constructed to prevent the entry of exhaust fumes into the passenger compartment;

(m) Fenders that must be installed on all wheels and cover the entire tread width that comes in contact with the road surface. Coverage of the tire tread circumference must be from

at least fifteen degrees in front and to at least seventy-five degrees to the rear of the vertical centerline at each wheel measured from the center of the wheel rotation. The tire must not come in contact with the body, fender, chassis, or suspension of the vehicle. Kit vehicles that are more than forty years old and are owned and operated primarily as collector's vehicles are exempt from this fender requirement if the vehicle is used and driven during fair weather on well-maintained, hard-surfaced roads;

(n) A speedometer that is calibrated to indicate miles per hour, and may also indicate kilometers per hour;

(o) Mirrors as outlined in RCW 46.37.400. Mirror mountings must provide for mirror adjustment by tilting both horizontally and vertically;

(p) An accelerator control system that, in accordance with 49 C.F.R. Sec. 571.124, contains a double spring that returns engine throttle to an idle position when the driver removes the actuating force from the accelerator control. The geometry of the throttle linkage must be designed so that the throttle will not lock in an open position. A vehicle equipped with cruise control is exempt when the cruise control is actuated;

(q) A fuel system that, in accordance with 49 C.F.R. Secs. 571.301 and 571.302, is securely fastened to the vehicle so as not to interfere with the vehicle's operation. The components, such as tank, tubing, hoses, and pump, must be of leak proof design and be securely attached with fasteners designed for that purpose. All fuel system vent lines must extend outside of the passenger compartment and be positioned as not to be in contact with the high temperature surfaces or moving components. If the vehicle is fueled using alternative measures, it must be installed in accordance with any applicable standards set by the United States department of transportation;

®) A steering wheel as outlined in RCW 46.37.375 and WAC 204-10- 034;

(s) A suspension as outlined in WAC 204-10-036;

(t) An exhaust system as outlined in WAC 204-10-038; and

(u) A horn that is capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet. The horn or another warning device must not emit an unreasonably loud or harsh sound or whistle. A bell or siren must not be used as a warning device. The device used to actuate the horn must be easily accessible to the driver when operating the vehicle.

(3) A kit vehicle may also be equipped with hoods and bumpers. If this equipment is present, it must meet the following requirements:

(a) Hood latches must be equipped with a primary and secondary latching system to hold the hood in a closed position if the hood is a front opening hood; and

(b) Bumpers must be 4.5 inches in vertical height, centered on the vehicle's centerline, and extend no less than the width of the respective wheel track distances. Bumpers must be horizontal load veering and attach to the frame to effectively transfer energy when impacted. The bumper must be installed in accordance with the bumper heights outlined in WAC 204-10-022."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Swecker moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5719.

Senator Swecker spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Swecker that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5719.

The motion by Senator Swecker carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5719 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5719, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5719, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

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

Absent: Senator Tom

Excused: Senator Delvin

SUBSTITUTE SENATE BILL NO. 5719, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Marr, Senators Fraser and Tom were excused.

MESSAGE FROM THE HOUSE

April 1, 2009

MR. PRESIDENT:

The House has passed SENATE BILL NO. 5720 with the following amendment: 5720 AMH HE H2789.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28B.15.621 and 2008 c 188 s 1 and 2008 c 6 s 501 are each reenacted and amended to read as follows:

(1) The legislature finds that active military and naval veterans, reserve military and naval veterans, and national guard members called to active duty have served their country and have risked their lives to defend the lives of all Americans and the freedoms that define and distinguish our nation. The legislature intends to honor active military and naval veterans, reserve military and naval veterans, and national guard members who have served on active military or naval duty for the public service they have provided to this country.

(2) Subject to the limitations in RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges, may waive all or a portion of tuition and fees for an eligible veteran or national guard member.

(3) The governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges, may waive all or a portion of tuition and fees for a military or naval veteran who is a Washington domiciliary, but who did not serve on foreign soil or in international waters or in another location in support of those serving on foreign soil or in international waters and who does not qualify as an eligible veteran or national guard member under subsection (8) of this section. However, there shall be no

state general fund support for waivers granted under this subsection.

(4) Subject to the conditions in subsection (5) of this section and the limitations in RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges, shall waive all tuition and fees for the following persons:

(a) A child and the spouse or the domestic partner or surviving spouse or surviving domestic partner of an eligible veteran or national guard member who became totally disabled((~~, as defined in RCW 28B.15.385,~~)) as a result of serving in active federal military or naval service, or who is determined by the federal government to be a prisoner of war or missing in action; and

(b) A child and the surviving spouse or surviving domestic partner of an eligible veteran or national guard member who lost his or her life as a result of serving in active federal military or naval service.

(5) The conditions in this subsection (5) apply to waivers under subsection (4) of this section.

(a) A child must be a Washington domiciliary between the age of seventeen and twenty-six to be eligible for the tuition waiver. A child's marital status does not affect eligibility.

(b)(i) A surviving spouse or surviving domestic partner must be a Washington domiciliary.

(ii) Except as provided in (b)(iii) of this subsection, a surviving spouse or surviving domestic partner has ten years from the date of the death, total disability, or federal determination of prisoner of war or missing in action status of the eligible veteran or national guard member to receive benefits under the waiver. Upon remarriage or registration in a subsequent domestic partnership, the surviving spouse or surviving domestic partner is ineligible for the waiver of all tuition and fees.

(iii) If a death results from total disability, the surviving spouse has ten years from the date of death in which to receive benefits under the waiver.

(c) Each recipient's continued participation is subject to the school's satisfactory progress policy.

(d) Tuition waivers for graduate students are not required for those who qualify under subsection (4) of this section but are encouraged.

(e) Recipients who receive a waiver under subsection (4) of this section may attend full-time or part-time. Total credits earned using the waiver may not exceed two hundred quarter credits, or the equivalent of semester credits.

(6) Required waivers of all tuition and fees under subsection (4) of this section shall not affect permissive waivers of tuition and fees under subsection (3) of this section.

(7) Private vocational schools and private higher education institutions are encouraged to provide waivers consistent with the terms in subsections (2) through (5) of this section.

(8) The definitions in this subsection apply throughout this section.

(a) "Child" means a biological child, adopted child, or stepchild.

(b) "Eligible veteran or national guard member" means a Washington domiciliary who was an active or reserve member of the United States military or naval forces, or a national guard member called to active duty, who served in active federal service, under either Title 10 or Title 32 of the United States Code, in a war or conflict fought on foreign soil or in international waters or in another location in support of those serving on foreign soil or in international waters, and if discharged from service, has received an honorable discharge.

((~~(b)~~)) (c) "Totally disabled" means a person who has been determined to be one hundred percent disabled by the federal department of veterans affairs.

((~~(c)~~)) (d) "Washington domiciliary" means a person whose true, fixed, and permanent house and place of habitation is the state of Washington. "Washington domiciliary" includes a person who is residing in rental housing or residing in base housing. In ascertaining whether a child or surviving spouse or surviving domestic partner is domiciled in the state of Washington, public institutions of higher education shall, to the fullest extent possible, rely upon the standards provided in RCW 28B.15.013.

(9) As used in subsection (4) of this section, "fees" includes all assessments for costs incurred as a condition to a student's full participation in coursework and related activities at an institution of higher education.

(10) The governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges shall report to the higher education committees of the legislature by November 15, 2010, and every two years thereafter, regarding the status of implementation of the waivers under subsection (4) of this section. The reports shall include the following data and information:

(a) Total number of waivers;

(b) Total amount of tuition waived;

(c) Total amount of fees waived;

(d) Average amount of tuition and fees waived per recipient;

(e) Recipient demographic data that is disaggregated by distinct ethnic categories within racial subgroups; and

(f) Recipient income level, to the extent possible."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kilmer moved that the Senate concur in the House amendment(s) to Senate Bill No. 5720.

Senator Kilmer spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kilmer that the Senate concur in the House amendment(s) to Senate Bill No. 5720.

The motion by Senator Kilmer carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5720 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5720, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5720, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Delvin and Tom

SENATE BILL NO. 5720, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 8, 2009

April 8, 2009

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 5724 with the following amendment: 5724-S AMH TEC H2881.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) Any county legislative authority of a county where a public utility district owns and operates a plant or system for the generation, transmission, and distribution of electric energy for sale within the county may construct, purchase, acquire, operate, and maintain a facility to generate electricity from biomass energy that is a renewable resource under RCW 19.285.030 or from biomass energy that is produced from lignin in spent pulping liquors or liquors derived from algae and other sources. The county legislative authority has the authority to regulate and control the use, distribution, sale, and price of the electricity produced from the biomass facility authorized under this section.

(2) For the purposes of this section:

(a) "County legislative authority" means the board of county commissioners or the county council; and

(b) "Public utility district" means a municipal corporation formed under chapter 54.08 RCW.

NEW SECTION. **Sec. 2.** Section 1 of this act constitutes a new chapter in Title 36 RCW."

Correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Pridemore moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5724.

Senator Pridemore spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Pridemore that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5724.

The motion by Senator Pridemore carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5724 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5724, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5724, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Delvin and Tom

SUBSTITUTE SENATE BILL NO. 5724, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 8, 2009

MR. PRESIDENT:
The House has passed SENATE BILL NO. 5731 with the following amendment: 5731 AMH CODY H3132.1

On page 4, line 9, after "may" strike "explore" and insert "implement"

On page 4, line 9, after "methods" insert "of communication"
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Keiser moved that the Senate concur in the House amendment(s) to Senate Bill No. 5731.

Senator Keiser spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate concur in the House amendment(s) to Senate Bill No. 5731.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5731 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5731, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5731, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

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

Absent: Senator Jarrett

Excused: Senator Tom

SENATE BILL NO. 5731, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 8, 2009

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 5738 with the following amendment: 5738-S A,H ED H2936.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) Within existing resources, the office of the superintendent of public instruction shall review all annual compliance reports required of school districts.

(2) The office of the superintendent of public instruction shall make recommendations about which reports should be:

(a) Discontinued;

(b) Integrated into the longitudinal student data system established in RCW 28A.300.500; or

(c) Maintained in their current form.

(3) The office of the superintendent of public instruction shall also recommend which federal reporting requirements may be used to meet state reporting requirements in order to avoid duplication of reports.

(4) By December 1, 2009, the office of the superintendent of public instruction shall provide a final report on the status of the annual compliance reports to the appropriate policy and fiscal committees of the legislature."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator McAuliffe moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5738.

Senator McAuliffe spoke in favor of the motion.

MOTION

On motion of Senator Marr, Senator Hargrove was excused.

The President declared the question before the Senate to be the motion by Senator McAuliffe that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5738.

The motion by Senator McAuliffe carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5738 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5738, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5738, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Hargrove and Tom

SUBSTITUTE SENATE BILL NO. 5738, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 9, 2009

MR. PRESIDENT:
The House has passed ENGROSSED SENATE BILL NO. 5810 with the following amendment: 5810.E AMH JUDI TANG 072

Strike everything after the enacting clause and insert the following:

"**Sec. 1**. RCW 61.24.005 and 1998 c 295 s 1 are each amended to read as follows:

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

(1) "Grantor" means a person, or its successors, who executes a deed of trust to encumber the person's interest in property as security for the performance of all or part of the borrower's obligations.

(2) "Beneficiary" means the holder of the instrument or document evidencing the obligations secured by the deed of trust, excluding persons holding the same as security for a different obligation.

(3) "Affiliate of beneficiary" means any entity which controls, is controlled by, or is under common control with a beneficiary.

(4) "Trustee" means the person designated as the trustee in the deed of trust or appointed under RCW 61.24.010(2).

(5) "Borrower" means a person or a general partner in a partnership, including a joint venture, that is liable for all or part of the obligations secured by the deed of trust under the instrument or other document that is the principal evidence of such obligations, or the person's successors if they are liable for those obligations under a written agreement with the beneficiary.

(6) "Guarantor" means any person and its successors who is not a borrower and who guarantees any of the obligations secured by a deed of trust in any written agreement other than the deed of trust.

(7) "Commercial loan" means a loan that is not made primarily for personal, family, or household purposes.

(8) "Trustee's sale" means a nonjudicial sale under a deed of trust undertaken pursuant to this chapter.

(9) "Fair value" means the value of the property encumbered by a deed of trust that is sold pursuant to a trustee's sale. This value shall be determined by the court or other appropriate adjudicator by reference to the most probable price, as of the date of the trustee's sale, which would be paid in cash or other immediately available funds, after deduction of prior liens and encumbrances with interest to the date of the trustee's sale, for which the property would sell on such date after reasonable exposure in the market under conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under duress.

(10) "Record" and "recorded" includes the appropriate registration proceedings, in the instance of registered land.

(11) "Person" means any natural person, or legal or governmental entity.

(12) "Owner-occupied" means property that is the principal residence of the borrower.

(13) "Residential real property" means property consisting solely of a single family residence, a residential condominium unit, or a residential cooperative unit.

(14) "Tenant-occupied property" means property consisting solely of residential real property that is the principal residence of a tenant subject to chapter 59.18 RCW or other building with four or fewer residential units that is the principal residence of a tenant subject to chapter 59.18 RCW.

NEW SECTION. **Sec. 2**. A new section is added to chapter 61.24 RCW to read as follows:

(1)(a) A trustee, beneficiary, or authorized agent may not issue a notice of default under RCW 61.24.030(8) until thirty days after initial contact with the borrower is made as required under (b) of this subsection or thirty days after satisfying the due diligence requirements as described in subsection (5) of this section.

(b) A beneficiary or authorized agent shall contact the borrower by letter and by telephone in order to assess the borrower's financial ability to pay the debt secured by the deed of trust and explore options for the borrower to avoid foreclosure. The letter required under this subsection must be mailed in accordance with subsection (5)(a) of this section and must include the information described in subsection (5)(a) and (5)(e)(i) through (iv) of this section.

(c) During the initial contact, the beneficiary or authorized agent shall advise the borrower that he or she has the right to request a subsequent meeting and, if requested, the beneficiary or authorized agent shall schedule the meeting to occur within fourteen days of the request. The assessment of the borrower's financial ability to repay the debt and a discussion of options may occur during the initial contact or at a subsequent meeting scheduled for that purpose. At the initial contact, the borrower must be provided the toll-free telephone number made available by the department to find a department-certified housing counseling agency and the toll-free numbers for the Department of Financial Institutions and the statewide civil legal aid hotline for possible assistance and referrals.

(d) Any meeting under this section may occur telephonically.

(2) A notice of default issued under RCW 61.24.030(8) must include a declaration, as provided in subsection (9) of this section, from the beneficiary or authorized agent that it has contacted the borrower as provided in subsection (1)(b) of this section, it has tried with due diligence to contact the borrower under subsection (5) of this section, or the borrower has surrendered the property to the trustee, beneficiary, or authorized agent. Unless the trustee has violated his or her duty under RCW 61.24.010(4), the trustee is entitled to rely on the declaration as evidence that the requirements of this section have been satisfied, and the trustee is not liable for the beneficiary's or its authorized agent's failure to comply with the requirements of this section.

(3) A beneficiary's or authorized agent's loss mitigation personnel may participate by telephone during any contact required under this section.

(4) Within fourteen days after the initial contact under subsection (1) of this section, if a borrower has designated a department-certified housing counseling agency, attorney, or other advisor to discuss with the beneficiary or authorized agent, on the borrower's behalf, options for the borrower to avoid foreclosure, the borrower shall inform the beneficiary or authorized agent and provide the contact information. The beneficiary or authorized agent shall contact the designated representative for the borrower for the discussion within fourteen days after the representative is designated by the borrower. Any deed of trust modification or workout plan offered at the meeting with the borrower's designated representative by the beneficiary or authorized agent is subject to approval by the borrower.

(5) A notice of default may be issued under RCW 61.24.030(8) if a beneficiary or authorized agent has not contacted a borrower as required under subsection (1)(b) of this section and the failure to contact the borrower occurred despite the due diligence of the beneficiary or authorized agent. Due diligence requires the following:

(a) A beneficiary or authorized agent shall first attempt to contact a borrower by sending a first-class letter to the address in the beneficiary's records for sending account statements to the borrower and to the address of the property encumbered by the deed of trust. The letter must include the toll-free telephone number made available by the department to find a department-certified housing counseling agency, and the following information:

"You may contact the Department of Financial Institutions, the Washington State Bar Association, or the statewide civil legal aid hotline for possible assistance or referrals."

(b)(i) After the letter has been sent, the beneficiary or authorized agent shall attempt to contact the borrower by telephone at least three times at different hours and on different days. Telephone calls must be made to the primary and secondary telephone numbers on file with the beneficiary or authorized agent.

(ii) A beneficiary or authorized agent may attempt to contact a borrower using an automated system to dial borrowers if the telephone call, when answered, is connected to a live representative of the beneficiary or authorized agent.

(iii) A beneficiary or authorized agent satisfies the telephone contact requirements of this subsection (5)(b) if the beneficiary or authorized agent determines, after attempting contact under this subsection (5)(b), that the borrower's primary telephone number and secondary telephone number or numbers on file, if any, have been disconnected or are not good contact numbers for the borrower.

(c) If the borrower does not respond within fourteen days after the telephone call requirements of (b) of this subsection have been satisfied, the beneficiary or authorized agent shall send a certified letter, with return receipt requested, to the borrower at the address in the beneficiary's records for sending account statements to the borrower and to the address of the property encumbered by the deed of trust. The letter must include the information described in subsection (5)(e)(i) through (iv) of this section.

(d) The beneficiary or authorized agent shall provide a means for the borrower to contact the beneficiary or authorized agent in a timely manner, including a toll-free telephone number or charge-free equivalent that will provide access to a live representative during business hours.

(e) The beneficiary or authorized agent shall post a link on the home page of the beneficiary's or authorized agent's internet web site, if any, to the following information:

(i) Options that may be available to borrowers who are unable to afford their mortgage payments and who wish to avoid foreclosure, and instructions to borrowers advising them on steps to take to explore those options;

(ii) A list of financial documents borrowers should collect and be prepared to present to the beneficiary or authorized agent when discussing options for avoiding foreclosure;

(iii) A toll-free telephone number or charge-free equivalent for borrowers who wish to discuss options for avoiding foreclosure with their beneficiary or authorized agent; and

(iv) The toll-free telephone number or charge-free equivalent made available by the department to find a department-certified housing counseling agency.

(6) Subsections (1) and (5) of this section do not apply if any of the following occurs:

(a) The borrower has surrendered the property as evidenced by either a letter confirming the surrender or delivery of the keys to the property to the trustee, beneficiary, or authorized agent; or

(b) The borrower has filed for bankruptcy, and the bankruptcy stay remains in place, or the borrower has filed for bankruptcy and the bankruptcy court has granted relief from the bankruptcy stay allowing enforcement of the deed of trust.

(7)(a) This section applies only to deeds of trust made from January 1, 2003, to December 31, 2007, inclusive, that are recorded against owner-occupied residential real property. This section does not apply to deeds of trust: (i) Securing a

commercial loan; (ii) securing obligations of a grantor who is not the borrower or a guarantor; or (iii) securing a purchaser's obligations under a seller-financed sale.

(b) This section does not apply to association beneficiaries subject to chapters 64.32, 64.34, or 64.38 RCW.

(8) As used in this section:

(a) "Department" means the United States department of housing and urban development.

(b) "Seller-financed sale" means a residential real property transaction where the seller finances all or part of the purchase price, and that financed amount is secured by a deed of trust against the subject residential real property.

(9) The form of declaration to be provided by the beneficiary or authorized agent as required under subsection (2) of this section must be in substantially the following form:

"FORECLOSURE LOSS MITIGATION FORM

Please select applicable option(s) below.

The undersigned beneficiary or authorized agent for the beneficiary hereby represents and declares under the penalty of perjury that [check the applicable box and fill in any blanks so that the trustee can insert, on the beneficiary's behalf, the applicable declaration in the notice of default required under chapter 61.24 RCW]:

(1) [ ] The beneficiary or beneficiary's authorized agent has contacted the borrower under, and has complied with, section 1 of this act (contact provision to "assess the borrower's financial ability to pay the debt secured by the deed of trust and explore options for the borrower to avoid foreclosure").

(2) [ ] The beneficiary or beneficiary's authorized agent has exercised due diligence to contact the borrower as required in section 1(5) of this act and, after waiting fourteen days after the requirements in section 1 of this act were satisfied, the beneficiary or the beneficiary's authorized agent sent to the borrower(s), by certified mail, return receipt requested, the letter required under section 1 of this act.

(3) [ ] The borrower has surrendered the secured property as evidenced by either a letter confirming the surrender or by delivery of the keys to the secured property to the beneficiary, the beneficiary's authorized agent or to the trustee.

(4) [ ] Under section 1 of this act, the beneficiary or the beneficiary's authorized agent has verified information that, on or before the date of this declaration, the borrower(s) has filed for bankruptcy and the bankruptcy stay remains in place, or the borrower has filed for bankruptcy and the bankruptcy court has granted relief from the bankruptcy stay allowing the enforcement of the deed of trust."

NEW SECTION. **Sec. 3**. A new section is added to chapter 61.24 RCW to read as follows:

If the trustee elects to foreclose the interest of any occupant of tenant-occupied property, upon posting a notice of trustee's sale under RCW 61.24.040, the trustee or its authorized agent shall post in the manner required under RCW 61.24.040(1)(e) and shall mail at the same time in an envelope addressed to the "Resident of property subject to foreclosure sale" the following notice:

"The foreclosure process has begun on this property, which may affect your right to continue to live in this property. Ninety days or more after the date of this notice, this property may be sold at foreclosure. If you are renting this property, the new property owner may either give you a new rental agreement or provide you with a sixty-day notice to vacate the property. You may wish to contact a lawyer or your local legal aid or housing counseling agency to discuss any rights that you may have."

NEW SECTION. **Sec. 4**. A new section is added to chapter 61.24 RCW to read as follows:

(1) A tenant or subtenant in possession of a residential real property at the time the property is sold in foreclosure must be given sixty days' written notice to vacate before the tenant or subtenant may be removed from the property as prescribed in chapter 59.12 RCW. Notwithstanding the notice requirement in this subsection, a tenant may be evicted for waste or nuisance in an unlawful detainer action under chapter 59.12 RCW.

(2) This section does not prohibit the new owner of a property purchased pursuant to a trustee's sale from negotiating a new purchase or rental agreement with a tenant or subtenant.

(3) This section does not apply if the borrower or grantor remains on the property as a tenant, subtenant, or occupant.

NEW SECTION. **Sec. 5**. Sections 3 and 4 of this act apply only to the foreclosure of tenant-occupied property.

NEW SECTION. **Sec. 6**. A new section is added to chapter 61.24 RCW to read as follows:

(1) The failure of the borrower or grantor to bring a civil action to enjoin a foreclosure sale under this chapter may not be deemed a waiver of a claim for damages asserting:

(a) Common law fraud or misrepresentation;

(b) A violation of Title 19 RCW; or

(c) Failure of the trustee to materially comply with the provisions of this chapter.

(2) The nonwaived claims listed under subsection (1) of this section are subject to the following limitations:

(a) The claim must be asserted or brought within two years from the date of the foreclosure sale or within the applicable statute of limitations for such claim, whichever expires earlier;

(b) The claim may not seek any remedy at law or in equity other than monetary damages;

(c) The claim may not affect in any way the validity or finality of the foreclosure sale or a subsequent transfer of the property;

(d) A borrower or grantor who files such a claim is prohibited from recording a lis pendens or any other document purporting to create a similar effect, related to the real property foreclosed upon;

(e) The claim may not operate in any way to encumber or cloud the title to the property that was subject to the foreclosure sale, except to the extent that a judgment on the claim in favor of the borrower or grantor may, consistent with RCW 4.56.190, become a judgment lien on real property then owned by the judgment debtor; and

(f) The relief that may be granted for judgment upon the claim is limited to actual damages. However, if the borrower or grantor brings in the same civil action a claim for violation of chapter 19.86 RCW, arising out of the same alleged facts, relief under chapter 19.86 RCW is limited to actual damages, treble damages as provided for in RCW 19.86.090, and the costs of suit, including a reasonable attorney's fee.

(4) This section applies only to foreclosures of owner-occupied residential real property.

(5) This section does not apply to the foreclosure of a deed of trust used to secure a commercial loan.

Sec. 7. RCW 61.24.010 and 2008 c 153 s 1 are each amended to read as follows:

(1) The trustee of a deed of trust under this chapter shall be:

(a) Any domestic corporation incorporated under Title 23B, 30, 31, 32, or 33 RCW of which at least one officer is a Washington resident; or

(b) Any title insurance company authorized to insure title to real property under the laws of this state, or ((~~its agents~~)) any title insurance agent licensed under chapter 48.17 RCW; or

(c) Any attorney who is an active member of the Washington state bar association at the time the attorney is named trustee; or

(d) Any professional corporation incorporated under chapter 18.100 RCW, any professional limited liability company formed under chapter 25.15 RCW, any general partnership, including limited liability partnerships, formed under chapter 25.04 RCW, all of whose shareholders, members, or partners, respectively, are either licensed attorneys or entities, provided all of the owners of those entities are licensed attorneys, or any domestic corporation wholly owned by any of the entities under this subsection (1)(d); or

(e) Any agency or instrumentality of the United States government; or

(f) Any national bank, savings bank, or savings and loan association chartered under the laws of the United States.

(2) The trustee may resign at its own election or be replaced by the beneficiary. The trustee shall give prompt written notice of its resignation to the beneficiary. The resignation of the trustee shall become effective upon the recording of the notice of resignation in each county in which the deed of trust is recorded. If a trustee is not appointed in the deed of trust, or upon the resignation, incapacity, disability, absence, or death of the trustee, or the election of the beneficiary to replace the trustee, the beneficiary shall appoint a trustee or a successor trustee. Only upon recording the appointment of a successor trustee in each county in which the deed of trust is recorded, the successor trustee shall be vested with all powers of an original trustee.

(3) The trustee or successor trustee shall have no fiduciary duty or fiduciary obligation to the grantor or other persons having an interest in the property subject to the deed of trust.

(4) ((~~The trustee or successor trustee shall act impartially between the borrower, grantor, and beneficiary.~~)) The trustee or successor trustee has a duty of good faith to the borrower, beneficiary, and grantor.

Sec. 8. RCW 61.24.030 and 2008 c 153 s 2 and 2008 c 108 s 22 are each reenacted and amended to read as follows:

It shall be requisite to a trustee's sale:

(1) That the deed of trust contains a power of sale;

(2) That the deed of trust contains a statement that the real property conveyed is not used principally for agricultural purposes; provided, if the statement is false on the date the deed of trust was granted or amended to include that statement, and false on the date of the trustee's sale, then the deed of trust must be foreclosed judicially. Real property is used for agricultural purposes if it is used in an operation that produces crops, livestock, or aquatic goods;

(3) That a default has occurred in the obligation secured or a covenant of the grantor, which by the terms of the deed of trust makes operative the power to sell;

(4) That no action commenced by the beneficiary of the deed of trust is now pending to seek satisfaction of an obligation secured by the deed of trust in any court by reason of the grantor's default on the obligation secured: PROVIDED, That (a) the seeking of the appointment of a receiver shall not constitute an action for purposes of this chapter; and (b) if a receiver is appointed, the grantor shall be entitled to any rents or profits derived from property subject to a homestead as defined in RCW 6.13.010. If the deed of trust was granted to secure a commercial loan, this subsection shall not apply to actions brought to enforce any other lien or security interest granted to secure the obligation secured by the deed of trust being foreclosed;

(5) That the deed of trust has been recorded in each county in which the land or some part thereof is situated;

(6) That prior to the date of the notice of trustee's sale and continuing thereafter through the date of the trustee's sale, the trustee must maintain a street address in this state where personal service of process may be made, and the trustee must maintain a physical presence and have telephone service at such address; and

(7)(a) That, for residential real property, before the notice of trustee's sale is recorded, transmitted, or served, the trustee shall have proof that the beneficiary is the owner of any promissory note or other obligation secured by the deed of trust. A declaration by the beneficiary made under the penalty of perjury stating that the beneficiary is the actual holder of the promissory note or other obligation secured by the deed of trust shall be sufficient proof as required under this subsection.

(b) Unless the trustee has violated his or her duty under RCW 61.24.010(4), the trustee is entitled to rely on the beneficiary's declaration as evidence of proof required under this subsection.

(c) This subsection (7) does not apply to association beneficiaries subject to chapters 64.32, 64.34, or 64.38 RCW.

((~~(7)~~)) (8) That at least thirty days before notice of sale shall be recorded, transmitted or served, written notice of default shall be transmitted by the beneficiary or trustee to the borrower and grantor at their last known addresses by both first-class and either registered or certified mail, return receipt requested, and the beneficiary or trustee shall cause to be posted in a conspicuous place on the premises, a copy of the notice, or personally served on the borrower and grantor. This notice shall contain the following information:

(a) A description of the property which is then subject to the deed of trust;

(b) A statement identifying each county in which the deed of trust is recorded and the document number given to the deed of trust upon recording by each county auditor or recording officer;

(c) A statement that the beneficiary has declared the borrower or grantor to be in default, and a concise statement of the default alleged;

(d) An itemized account of the amount or amounts in arrears if the default alleged is failure to make payments;

(e) An itemized account of all other specific charges, costs, or fees that the borrower, grantor, or any guarantor is or may be obliged to pay to reinstate the deed of trust before the recording of the notice of sale;

(f) A statement showing the total of (d) and (e) of this subsection, designated clearly and conspicuously as the amount necessary to reinstate the note and deed of trust before the recording of the notice of sale;

(g) A statement that failure to cure the alleged default within thirty days of the date of mailing of the notice, or if personally served, within thirty days of the date of personal service thereof, may lead to recordation, transmittal, and publication of a notice of sale, and that the property described in (a) of this subsection may be sold at public auction at a date no less than one hundred twenty days in the future;

(h) A statement that the effect of the recordation, transmittal, and publication of a notice of sale will be to (i) increase the costs and fees and (ii) publicize the default and advertise the grantor's property for sale;

(i) A statement that the effect of the sale of the grantor's property by the trustee will be to deprive the grantor of all their interest in the property described in (a) of this subsection;

(j) A statement that the borrower, grantor, and any guarantor has recourse to the courts pursuant to RCW 61.24.130 to contest the alleged default on any proper ground; ((~~and~~))

(k) In the event the property secured by the deed of trust is owner-occupied residential real property, a statement, prominently set out at the beginning of the notice, which shall state as follows:

"You should take care to protect your interest in your home. This notice of default (your failure to pay) is the first step in a process that could result in you losing your home. You should carefully review your options. For example:

Can you pay and stop the foreclosure process?

Do you dispute the failure to pay?

Can you sell your property to preserve your equity?

Are you able to refinance this loan or obligation with a new loan or obligation from another lender with payments, terms, and fees that are more affordable?

Do you qualify for any government or private homeowner assistance programs?

Do you know if filing for bankruptcy is an option? What are the pros and cons of doing so?

Do not ignore this notice; because if you do nothing, you could lose your home at a foreclosure sale. (No foreclosure sale can be held any sooner than ninety days after a notice of sale is issued and a notice of sale cannot be issued until thirty days after this notice.) Also, if you do nothing to pay what you owe, be careful of people who claim they can help you. There are many individuals and businesses that watch for the notices of sale in order to unfairly profit as a result of borrowers' distress.

You may feel you need help understanding what to do. There are a number of professional resources available, including home loan counselors and attorneys, who may assist you. Many legal services are lower-cost or even free, depending on your ability to pay. If you desire legal help in understanding your options or handling this default, you may obtain a referral (at no charge) by contacting the county bar association in the county where your home is located. These legal referral services also provide information about lower-cost or free legal services for those who qualify. You may contact the Department of Financial Institutions or the statewide civil legal aid hotline for possible assistance or referrals." and;

(l) In the event the property secured by the deed of trust is residential real property, the name and address of the owner of any promissory notes or other obligations secured by the deed of trust and the name, address, and telephone number of a party acting as a servicer of the obligations secured by the deed of trust.

Sec. 9. RCW 61.24.040 and 2008 c 153 s 3 are each amended to read as follows:

A deed of trust foreclosed under this chapter shall be foreclosed as follows:

(1) At least ninety days before the sale, the trustee shall:

(a) Record a notice in the form described in ((~~RCW 61.24.040(1)~~))(f) of this subsection in the office of the auditor in each county in which the deed of trust is recorded;

(b) To the extent the trustee elects to foreclose its lien or interest, or the beneficiary elects to preserve its right to seek a deficiency judgment against a borrower or grantor under RCW 61.24.100(3)(a), and if their addresses are stated in a recorded instrument evidencing their interest, lien, or claim of lien, or an amendment thereto, or are otherwise known to the trustee, cause a copy of the notice of sale described in ((~~RCW 61.24.040(1)~~))(f) of this subsection to be transmitted by both first-class and either certified or registered mail, return receipt requested, to the following persons or their legal representatives, if any, at such address:

(i) The borrower and grantor;

(ii) The beneficiary of any deed of trust or mortgagee of any mortgage, or any person who has a lien or claim of lien against the property, that was recorded subsequent to the recordation of the deed of trust being foreclosed and before the recordation of the notice of sale;

(iii) The vendee in any real estate contract, the lessee in any lease, or the holder of any conveyances of any interest or estate in any portion or all of the property described in such notice, if that contract, lease, or conveyance of such interest or estate, or a memorandum or other notice thereof, was recorded after the recordation of the deed of trust being foreclosed and before the recordation of the notice of sale;

(iv) The last holder of record of any other lien against or interest in the property that is subject to a subordination to the deed of trust being foreclosed that was recorded before the recordation of the notice of sale;

(v) The last holder of record of the lien of any judgment subordinate to the deed of trust being foreclosed; and

(vi) The occupants of property consisting solely of a single-family residence, or a condominium, cooperative, or other dwelling unit in a multiplex or other building containing fewer than five residential units, whether or not the occupant's rental agreement is recorded, which notice may be a single notice addressed to "occupants" for each unit known to the trustee or beneficiary;

(c) Cause a copy of the notice of sale described in ((~~RCW 61.24.040(1)~~))(f) of this subsection to be transmitted by both first-class and either certified or registered mail, return receipt requested, to the plaintiff or the plaintiff's attorney of record, in any court action to foreclose a lien or other encumbrance on all or any part of the property, provided a court action is pending and a lis pendens in connection therewith is recorded in the office of the auditor of any county in which all or part of the property is located on the date the notice is recorded;

(d) Cause a copy of the notice of sale described in ((~~RCW 61.24.040(1)~~)) (f) of this subsection to be transmitted by both first-class and either certified or registered mail, return receipt requested, to any person who has recorded a request for notice in accordance with RCW 61.24.045, at the address specified in such person's most recently recorded request for notice;

(e) Cause a copy of the notice of sale described in ((~~RCW 61.24.040(1)~~)) (f) of this subsection to be posted in a conspicuous place on the property, or in lieu of posting, cause a copy of said notice to be served upon any occupant of the property;

(f) The notice shall be in substantially the following form:

NOTICE OF TRUSTEE'S SALE

I.

NOTICE IS HEREBY GIVEN that the undersigned Trustee will on the . . . . day of . . . . ., . . ., at the hour of . . . . o'clock . . . . M. at . . . . . [street address and location if inside a building] in the City of . . . . ., State of Washington, sell at public auction to the highest and best bidder, payable at the time of sale, the following described real property, situated in the County(ies) of . . . . ., State of Washington, to-wit:

[If any personal property is to be included in the trustee's sale, include a description that reasonably identifies such personal property]

which is subject to that certain Deed of Trust dated . . . . . ., . . ., recorded . . . . . ., . . ., under Auditor's File No. . . . ., records of . . . . . County, Washington, from . . . . . ., as Grantor, to . . . . . ., as Trustee, to secure an obligation in favor of . . . . . ., as Beneficiary, the beneficial interest in which was assigned by . . . . . ., under an Assignment recorded under Auditor's File No. . . . . [Include recording information for all counties if the Deed of Trust is recorded in more than one county.]

II.

No action commenced by the Beneficiary of the Deed of Trust is now pending to seek satisfaction of the obligation in any Court by reason of the Borrower's or Grantor's default on the obligation secured by the Deed of Trust.

[If there is another action pending to foreclose other security for all or part of the same debt, qualify the statement and identify the action.]

III.

The default(s) for which this foreclosure is made is/are as follows:
[If default is for other than payment of money, set forth the particulars]
Failure to pay when due the following amounts which are now in arrears:

IV.

The sum owing on the obligation secured by the Deed of Trust is: Principal $ . . . . . ., together with interest as provided in the note or other instrument secured from the . . . . day of . . . . . ., . . ., and such other costs and fees as are due under the note or other instrument secured, and as are provided by statute.

V.

The above-described real property will be sold to satisfy the expense of sale and the obligation secured by the Deed of Trust as provided by statute. The sale will be made without warranty, express or implied, regarding title, possession, or encumbrances on the . . . . day of . . . . . ., . . . The default(s) referred to in paragraph III must be cured by the . . . . day of . . . . . ., . . . (11 days before the sale date), to cause a discontinuance of the sale. The sale will be discontinued and terminated if at any time on or before the . . . . day of . . . . . ., . . ., (11 days before the sale date), the default(s) as set forth in paragraph III is/are cured and the Trustee's fees and costs are paid. The sale may be terminated any time after the . . . . day of . . . . . ., . . . (11 days before the sale date), and before the sale by the Borrower, Grantor, any Guarantor, or the holder of any recorded junior lien or encumbrance paying the entire principal and interest secured by the Deed of Trust, plus costs, fees, and advances, if any, made pursuant to the terms of the obligation and/or Deed of Trust, and curing all other defaults.

VI.

A written notice of default was transmitted by the Beneficiary or Trustee to the Borrower and Grantor at the following addresses:

by both first-class and certified mail on the . . . . day of . . . . . ., . . ., proof of which is in the possession of the Trustee; and the Borrower and Grantor were personally served on the . . . . day of . . . . . ., . . ., with said written notice of default or the written notice of default was posted in a conspicuous place on the real property described in paragraph I above, and the Trustee has possession of proof of such service or posting.

VII.

The Trustee whose name and address are set forth below will provide in writing to anyone requesting it, a statement of all costs and fees due at any time prior to the sale.

VIII.

The effect of the sale will be to deprive the Grantor and all those who hold by, through or under the Grantor of all their interest in the above-described property.

IX.

Anyone having any objection to the sale on any grounds whatsoever will be afforded an opportunity to be heard as to those objections if they bring a lawsuit to restrain the sale pursuant to RCW 61.24.130. Failure to bring such a lawsuit may result in a waiver of any proper grounds for invalidating the Trustee's sale.

[Add Part X to this notice if applicable under RCW 61.24.040(9)]

, Trustee

ü

Address

} Phone

[Acknowledgment]

(2) In addition to providing the borrower and grantor the notice of sale described in ((~~RCW 61.24.040~~)) subsection (1)(f) of this section, the trustee shall include with the copy of the notice which is mailed to the grantor, a statement to the grantor in substantially the following form:

NOTICE OF FORECLOSURE

Pursuant to the Revised Code of Washington,
Chapter 61.24 RCW

The attached Notice of Trustee's Sale is a consequence of default(s) in the obligation to . . . . . ., the Beneficiary of your Deed of Trust and owner of the obligation secured thereby. Unless the

default(s) is/are cured, your property will be sold at auction on the . . . . day of . . . . . ., . . .

To cure the default(s), you must bring the payments current, cure any other defaults, and pay accrued late charges and other costs, advances, and attorneys' fees as set forth below by the . . . . day of . . . . . ., . . . [11 days before the sale date]. To date, these arrears and costs are as follows:

	Estimated amount Currently due that will be due to reinstate to reinstate on . . . . . on	(11 days before the date set for sale)
Delinquent payments from . . . . . ., . . ., in the amount of		
$ . . . ./mo.:	$	$ . . . .
Late charges in the total amount of:	$	$ . . . .
	Estimated Amounts	
Attorneys' fees:	$	$ . . . .
Trustee's fee:	$	$ . . . .
Trustee's expenses: (Itemization)		
Title report	$	$ . . . .
Recording fees	$	$ . . . .
Service/Posting of Notices	$	$ . . . .
Postage/Copying expense	$	$ . . . .
Publication	$	$ . . . .
Telephone charges	$	
	$	
Inspection fees	$	$ . . . .
. . . . .	$	$ . . . .
. . . . .	$	$ . . . .
TOTALS	$	$ . . .

To pay off the entire obligation secured by your Deed of Trust as of the . . . . . day of . . . . . you must pay a total of $. . . . . in principal, $. . . . . in interest, plus other costs and advances estimated to date in the amount of $. . . . . From and after the date of this notice you must submit a written request to the Trustee to obtain the total amount to pay off the entire obligation secured by your Deed of Trust as of the payoff date.

As to the defaults which do not involve payment of money to the Beneficiary of your Deed of Trust, you must cure each such default. Listed below are the defaults which do not involve payment of money to the Beneficiary of your Deed of Trust. Opposite each such listed default is a brief description of the action necessary to cure the default and a description of the documentation necessary to show that the default has been cured.

Default	Description of Action Required to Cure and Documentation Necessary to Show Cure

You may reinstate your Deed of Trust and the obligation secured thereby at any time up to and including the . . . . day of . . . . . ., . . . [11 days before the sale date], by paying the amount set forth or estimated above and by curing any other defaults described above. Of course, as time passes other payments may become due, and any further payments coming due and any additional late charges must be added to your reinstating payment. Any new defaults not involving payment of money that occur after the date of this notice must also be cured in order to effect reinstatement. In addition, because some of the charges can only be estimated at this time, and because the amount necessary to reinstate or to pay off the entire indebtedness may include presently unknown expenditures required to preserve the property or to comply with state or local law, it will be necessary for you to contact the Trustee before the time you tender reinstatement or the payoff amount so that you may be advised of the exact amount you will be required to pay. Tender of payment or performance must be made to: . . . . ., whose address is . . . . ., telephone ( ) . . . . . AFTER THE . . . . DAY OF . . . . ., . . ., YOU MAY NOT REINSTATE YOUR DEED OF TRUST BY PAYING THE BACK PAYMENTS AND COSTS AND FEES AND CURING THE OTHER DEFAULTS AS OUTLINED ABOVE. The Trustee will respond to any written request for current payoff or reinstatement amounts within ten days of receipt of your written request. In such a case, you will only be able to stop the sale by paying, before the sale, the total principal balance ($ . . . . . .) plus accrued interest, costs and advances, if any, made pursuant to the terms of the documents and by curing the other defaults as outlined above.

You may contest this default by initiating court action in the Superior Court of the county in which the sale is to be held. In such action, you may raise any legitimate defenses you have to this default. A copy of your Deed of Trust and documents evidencing the obligation secured thereby are enclosed. You may wish to consult a lawyer. Legal action on your part may prevent or restrain the sale, but only if you persuade the court of the merits of your defense. You may contact the Department of Financial Institutions or the statewide civil legal aid hotline for possible assistance or referrals.

The court may grant a restraining order or injunction to restrain a trustee's sale pursuant to RCW 61.24.130 upon five days notice to the trustee of the time when, place where, and the judge before whom the application for the restraining order or injunction is to be made. This notice shall include copies of all pleadings and related documents to be given to the judge. Notice and other process may be served on the trustee at:

NAME:

ADDRESS:

TELEPHONE NUMBER:

If you do not reinstate the secured obligation and your Deed of Trust in the manner set forth above, or if you do not succeed in

restraining the sale by court action, your property will be sold. The effect of such sale will be to deprive you and all those who hold by, through or under you of all interest in the property;

(3) In addition, the trustee shall cause a copy of the notice of sale described in ((~~RCW 61.24.040~~)) subsection (1)(f) of this section (excluding the acknowledgment) to be published in a legal newspaper in each county in which the property or any part thereof is situated, once on or between the thirty-fifth and twenty-eighth day before the date of sale, and once on or between the fourteenth and seventh day before the date of sale;

(4) On the date and at the time designated in the notice of sale, the trustee or its authorized agent shall sell the property at public auction to the highest bidder. The trustee may sell the property in gross or in parcels as the trustee shall deem most advantageous;

(5) The place of sale shall be at any designated public place within the county where the property is located and if the property is in more than one county, the sale may be in any of the counties where the property is located. The sale shall be on Friday, or if Friday is a legal holiday on the following Monday, and during the hours set by statute for the conduct of sales of real estate at execution;

(6) The trustee has no obligation to, but may, for any cause the trustee deems advantageous, continue the sale for a period or periods not exceeding a total of one hundred twenty days by (a) a public proclamation at the time and place fixed for sale in the notice of sale and if the continuance is beyond the date of sale, by giving notice of the new time and place of the sale by both first class and either certified or registered mail, return receipt requested, to the persons specified in ((~~RCW 61.24.040~~)) subsection (1)(b)(i) and (ii) of this section to be deposited in the mail (i) not less than four days before the new date fixed for the sale if the sale is continued for up to seven days; or (ii) not more than three days after the date of the continuance by oral proclamation if the sale is continued for more than seven days, or, alternatively, (b) by giving notice of the time and place of the postponed sale in the manner and to the persons specified in ((~~RCW 61.24.040~~)) subsection (1)(b), (c), (d), and (e) of this section and publishing a copy of such notice once in the newspaper(s) described in ((~~RCW 61.24.040~~)) subsection (3) of this section, more than seven days before the date fixed for sale in the notice of sale. No other notice of the postponed sale need be given;

(7) The purchaser shall forthwith pay the price bid and on payment the trustee shall execute to the purchaser its deed; the deed shall recite the facts showing that the sale was conducted in compliance with all of the requirements of this chapter and of the deed of trust, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value, except that these recitals shall not affect the lien or interest of any person entitled to notice under ((~~RCW 61.24.040~~)) subsection (1) of this section, if the trustee fails to give the required notice to such person. In such case, the lien or interest of such omitted person shall not be affected by the sale and such omitted person shall be treated as if such person was the holder of the same lien or interest and was omitted as a party defendant in a judicial foreclosure proceeding;

(8) The sale as authorized under this chapter shall not take place less than one hundred ninety days from the date of default in any of the obligations secured;

(9) If the trustee elects to foreclose the interest of any occupant or tenant of property comprised solely of a single-family residence, or a condominium, cooperative, or other dwelling unit in a multiplex or other building containing fewer than five residential units, the following notice shall be included as Part X of the Notice of Trustee's Sale:

X.

NOTICE TO OCCUPANTS OR TENANTS

The purchaser at the trustee's sale is entitled to possession of the property on the 20th day following the sale, as against the grantor under the deed of trust (the owner) and anyone having an interest junior to the deed of trust, including occupants ((~~and~~)) who are not tenants. After the 20th day following the sale the purchaser has the right to evict occupants ((~~and~~)) who are not tenants by summary proceedings under ((~~the unlawful detainer act,~~)) chapter 59.12 RCW. For tenant-occupied property, the purchaser shall provide a tenant with written notice in accordance with section 10 of this act;

(10) Only one copy of all notices required by this chapter need be given to a person who is both the borrower and the grantor. All notices required by this chapter that are given to a general partnership are deemed given to each of its general partners, unless otherwise agreed by the parties.

Sec. 10. RCW 61.24.060 and 1998 c 295 s 8 are each amended to read as follows:

(1) The purchaser at the trustee's sale shall be entitled to possession of the property on the twentieth day following the sale, as against the borrower and grantor under the deed of trust and anyone having an interest junior to the deed of trust, including occupants ((~~and~~)) who are not tenants, who were given all of the notices to which they were entitled under this chapter. The purchaser shall also have a right to the summary proceedings to obtain possession of real property provided in chapter 59.12 RCW.

(2) If the trustee elected to foreclose the interest of any occupant or tenant, the purchaser of tenant-occupied property at the trustee's sale shall provide written notice to the occupants and tenants at the property purchased in substantially the following form:

"NOTICE: The property located at . . . . . was purchased at a trustee's sale by . . . . . on . . . . .(date).

1. If you are the previous owner or an occupant who is not a tenant of the property that was purchased, pursuant to RCW 61.24.060, the purchaser at the trustee's sale is entitled to possession of the property on . . . . . .(date), which is the twentieth day following the sale.

2. If you are a tenant or subtenant in possession of the property that was purchased, pursuant to section 4 of this act, the purchaser at the trustee's sale may either give you a new rental agreement OR give you a written notice to vacate the property in sixty days or more before the end of the monthly rental period."

(3) The notice required in subsection (2) of this section must be given to the property's occupants and tenants by both first-class mail, and either certified or registered mail, return receipt requested.

NEW SECTION. **Sec. 11.** A new section is added to chapter 59.12 RCW to read as follows:

An unlawful detainer action, commenced as a result of a trustee's sale under chapter 61.24 RCW, must comply with the requirements of RCW 61.24.040 and 61.24.060.

NEW SECTION. **Sec. 12.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 13**. Section 2 of this act expires December 31, 2012."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Berkey moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5810.

Senator Berkey spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Berkey that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5810.

The motion by Senator Berkey carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 5810 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5810, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5810, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

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

Voting nay: Senators McCaslin and Morton

Excused: Senator Tom

ENGROSSED SENATE BILL NO. 5810, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 15, 2009

MR. PRESIDENT:
The House has passed SENATE BILL NO. 5120 with the following amendment: 5120 AMH ENGR H3085.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that permit and inspection fees for new agricultural structures should not exceed the direct and indirect costs associated with reviewing permit applications, conducting inspections, and preparing specific environmental documents.

Sec. 2. RCW 19.27.015 and 1996 c 157 s 1 are each amended to read as follows:

As used in this chapter:

(1) "Agricultural structure" means a structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products. This structure may not be a place of human habitation or a place of employment where agricultural products are processed, treated, or packaged, nor may it be a place used by the public;

(2) "City" means a city or town;

(((~~(2)~~))) (3) "Multifamily residential building" means common wall residential buildings that consist of four or fewer units, that do not exceed two stories in height, that are less than five thousand square feet in area, and that have a one-hour fire-resistive occupancy separation between units; and

(((~~(3)~~))) (4) "Temporary growing structure" means a structure that has the sides and roof covered with polyethylene, polyvinyl, or similar flexible synthetic material and is used to provide plants with either frost protection or increased heat retention.

NEW SECTION. Sec. 3. A new section is added to chapter 19.27 RCW to read as follows:

Permitting and plan review fees under this chapter for agricultural structures may only cover the costs to counties, cities, towns, and other municipal corporations of processing applications, inspecting and reviewing plans, preparing detailed statements required by chapter 43.21C RCW, and performing necessary inspections under this chapter.

Sec. 4. RCW 19.27.100 and 1975 1st ex.s. c 8 s 1 are each amended to read as follows:

Except for permitting fees for agricultural structures under section 3 of this act, nothing in this chapter shall prohibit a city, town, or county of the state from imposing fees different from those set forth in the state building code.

NEW SECTION. Sec. 5. (1) The state auditor, in accordance with RCW 43.09.470, must conduct a performance audit of the reasonableness of building and inspection fees permitted under RCW 82.02.020 that are imposed by counties. In completing the audit, the state auditor must include guidance on determining allowable costs, and methodologies for allocating costs to specific projects. The state auditor, when developing written cost allocation guidance, must consider variances in the sizes of local government entities.

(2) In completing the audit report required by this section, the state auditor must establish and consult with a county government advisory committee. The advisory committee must consist of members from county and city governments and other interested parties, as determined by the auditor.

(3) The state auditor must provide a final audit report to the appropriate committees of the house of representatives and the senate by December 1, 2009.

(4) Revenues from the performance audits of the government account created in RCW 43.09.475 must be used for the audit required by this section.

(5) This section expires July 1, 2011."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Fairley moved that the Senate concur in the House amendment(s) to Senate Bill No. 5120.

Senator Fairley spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Fairley that the Senate concur in the House amendment(s) to Senate Bill No. 5120.

The motion by Senator Fairley carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5120 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5120, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5120, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Tom

SENATE BILL NO. 5120, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 14, 2009

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 5199 with the following amendments: 5199-S AMH ENVHMADS 058 & 5199-S AMH DUNS MADS 071

On page 4, at the beginning of line 29, insert "(1)"

On page 4, after line 31, insert the following:

"(2) Backflow assembly testers who maintain or repair backflow assemblies, devices, or air gaps inside a building are subject to certification under chapter 18.106 RCW."

On page 6, after line 14, insert the following:

"NEW SECTION. **Sec. 8.** A new section is added to chapter 70.119A RCW to read as follows:

A group A water system serving fewer than one hundred connections that purchases water from a water system approved by the department shall measure chlorine residuals at the same time and location of collection for a routine and repeat coliform sample."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Fraser moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5199.

Senators Fraser and Honeyford spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Fraser that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5199.

The motion by Senator Fraser carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5199 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5199, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5199, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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

SUBSTITUTE SENATE BILL NO. 5199, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 14, 2009

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 5270 with the following amendment: 5270-S AMH SGTA REIL 028

On page 17, line 2, after "is" strike "((~~at least~~))" and insert "at least"

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator McDermott moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5270.

Senator McDermott spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator McDermott that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5270.

The motion by Senator McDermott carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5270 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5270, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5270, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 32; Nays, 17; Absent, 0; Excused, 0.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Swecker and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Stevens and Zarelli

SUBSTITUTE SENATE BILL NO. 5270, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 13, 2009

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 5286 with the following amendment: 5286-S AMH APPH H3079.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 74.08A.270 and 2007 c 289 s 1 are each amended to read as follows:

(1) Good cause reasons for failure to participate in WorkFirst program components include: (a) Situations where the recipient is a parent or other relative personally providing care for a child under the age of six years, and formal or informal child care, or day care for an incapacitated individual living in the same home as a dependent child, is necessary for an individual to participate or continue participation in the program or accept employment, and such care is not available, and the department fails to provide such care; or (b) the recipient is a parent with a child under the age of one year.

(2) A parent claiming a good cause exemption from WorkFirst participation under subsection (1)(b) of this section shall not be required to participate in any activities during the first ninety days following the birth of the child. Thereafter, the parent may be required to participate in one or more of the following, up to a maximum total of twenty hours per week, if such treatment, services, or training is indicated by the comprehensive evaluation or other assessment:

(a) Mental health treatment;

(b) Alcohol or drug treatment;

(c) Domestic violence services; or

(d) Parenting education or parenting skills training, if available.

(3) The department shall: (a) Work with a parent claiming a good cause exemption under subsection (1)(b) of this section to identify and access programs and services designed to improve parenting skills and promote child well-being, including but not limited to home visitation programs and services; and (b) provide information on the availability of home visitation services to temporary assistance for needy families caseworkers, who shall inform clients of the availability of the services. If desired by the client, the caseworker shall facilitate appropriate referrals to providers of home visitation services.

(4) Nothing in this section shall prevent a recipient from participating in the WorkFirst program on a voluntary basis.

(5) A parent is eligible for a good cause exemption under subsection (1)(b) of this section for a maximum total of twelve months over the parent's lifetime.

(6) The grant to a single-parent household claiming a good cause exemption under subsection (1)(b) of this section shall not be reduced due to sanction for failure to participate in the activities described under subsection (2) of this section. The department may, however, assign or seek out a volunteer or responsible family member to serve as a protective payee when a parent in need of mental health or substance abuse treatment refuses to engage in treatment, and shall continue its efforts to engage parents in appropriate supportive services and treatment programs."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Regala moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5286.

Senator Regala spoke in favor of the motion.

MOTION

On motion of Senator Jacobsen, Senator Prentice was excused.

The President declared the question before the Senate to be the motion by Senator Regala that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5286.

The motion by Senator Regala carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5286 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5286, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5286, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 41; Nays, 7; Absent, 0; Excused, 1.

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

Voting nay: Senators Delvin, Hewitt, Holmquist, Honeyford, King, McCaslin and Morton

Excused: Senator Prentice

SUBSTITUTE SENATE BILL NO. 5286, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 7, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5318 with the following amendment: 5318-S AMH H3035.1

On page 1, beginning on line 11, after "(iii)" strike all material through "(c)" on line 15 and insert "a federally designated rural health clinic during its hours of operation.

(b)"

On page 1, line 17, strike "(((c))) (d)" and insert "(c)"

On page 1, line 19, after "or" strike "medical clinic" and insert "federally designated rural health clinic"

On page 2, line 28, after "A" strike "medical clinic" and insert "federally designated rural health clinic"

On page 2, line 31, after "The" strike "medical clinic" and insert "federally designated rural health clinic"

On page 2, line 33, after "hospital," strike "medical clinic" and insert "federally designated rural health clinic"

Beginning on page 2, line 36, after "(4)(a)" strike all material through "sign." on page 3, line 11, and insert "Beginning July 1, 2011, an appropriate location shall post a sign indicating that the location is an appropriate place for the safe and legal transfer of a newborn.

(b) To cover the costs of acquiring and placing signs, appropriate locations may accept nonpublic funds and donations."

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kauffman moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5318.

Senator Kauffman spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kauffman that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5318.

The motion by Senator Kauffman carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5318 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5318, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5318, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 40; Nays, 7; Absent, 1; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen,

Hobbs, Holmquist, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Tom

Voting nay: Senators Carrell, Delvin, Hewitt, Honeyford, McCaslin, Morton and Zarelli

Absent: Senator Pridemore

Excused: Senator Prentice

SUBSTITUTE SENATE BILL NO. 5318, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 13, 2009

MR. PRESIDENT:
The House has passed SECOND SUBSTITUTE SENATE BILL NO. 5346 with the following amendment: 5346-S2 AMH HCW H2869.1

Strike everything after the enacting clause and insert the following:

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

(1) The health care system in the nation and in Washington state costs nearly twice as much per capita as other industrialized nations.

(2) The fragmentation and variation in administrative processes prevalent in our health care system contribute to the high cost of health care, putting it increasingly beyond the reach of small businesses and individuals in Washington.

(3) In 2006, the legislature's blue ribbon commission on health care costs and access requested the office of the insurance commissioner to conduct a study of administrative costs and recommendations to reduce those costs. Findings in the report included:

(a) In Washington state approximately thirty cents of every dollar received by hospitals and doctors' offices is consumed by the administrative expenses of public and private payors and the providers;

(b) Before the doctors and hospitals receive the funds for delivering the care, approximately fourteen percent of the insurance premium has already been consumed by payor administration. The payor's portion of expense totals approximately four hundred fifty dollars per insurance member per year in Washington state;

(c) Over thirteen percent of every dollar received by a physician's office is devoted to interactions between the provider and payor;

(d) Between 1997 and 2005, billing and insurance related costs for hospitals in Washington grew at an average pace of nineteen percent per year; and

(e) The greatest opportunity for improved efficiency and administrative cost reduction in our health care system would involve standardizing and streamlining activities between providers and payors.

(4) To address these inefficiencies, constrain health care inflation, and make health care more affordable for Washingtonians, the legislature seeks to establish streamlined and uniform procedures for payors and providers of health care services in the state. It is the intent of the legislature to foster a continuous quality improvement cycle to simplify health care administration. This process should involve leadership in the health care industry and health care purchasers, with regulatory oversight from the office of the insurance commissioner.

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

(1) "Commissioner" means the insurance commissioner as established under chapter 48.02 RCW.

(2) "Health care provider" or "provider" has the same meaning as in RCW 48.43.005 and, for the purposes of this act, shall include facilities licensed under chapter 70.41 RCW.

(3) "Lead organization" means a private sector organization or organizations designated by the commissioner to lead development of processes, guidelines, and standards to streamline health care administration and to be adopted by payors and providers of health care services operating in the state.

(4) "Medical management" means administrative activities established by the payor to manage the utilization of services through preservice or postservice reviews. "Medical management" includes, but is not limited to:

(a) Prior authorization or preauthorization of services;

(b) Precertification of services;

(c) Postservice review;

(d) Medical necessity review; and

(e) Benefits advisory.

(5) "Payor" means public purchasers, as defined in this section, carriers licensed under chapters 48.20, 48.21, 48.44, 48.46, and 48.62 RCW, and the Washington state health insurance pool established in chapter 48.41 RCW.

(6) "Public purchaser" means the department of social and health services, the department of labor and industries, and the health care authority.

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

(8) "Third-party payor" has the same meaning as in RCW 70.02.010.

NEW SECTION. **Sec. 3.** A new section is added to chapter 70.14 RCW to read as follows:

The following state agencies are directed to cooperate with the insurance commissioner and, within funds appropriated specifically for this purpose, adopt the processes, guidelines, and standards to streamline health care administration pursuant to sections 2, 5, 6, and 8 through 10 of this act: The department of social and health services, the health care authority, and, to the extent permissible under Title 51 RCW, the department of labor and industries.

Sec. 4. RCW 70.47.130 and 2004 c 115 s 2 are each amended to read as follows:

(1) The activities and operations of the Washington basic health plan under this chapter, including those of managed health care systems to the extent of their participation in the plan, are exempt from the provisions and requirements of Title 48 RCW except:

(a) Benefits as provided in RCW 70.47.070;

(b) Managed health care systems are subject to the provisions of RCW 48.43.022, 48.43.500, 70.02.045, 48.43.505 through 48.43.535, 43.70.235, 48.43.545, 48.43.550, 70.02.110, and 70.02.900;

(c) Persons appointed or authorized to solicit applications for enrollment in the basic health plan, including employees of the health care authority, must comply with chapter 48.17 RCW. For purposes of this subsection (1)(c), "solicit" does not include distributing information and applications for the basic health plan and responding to questions; ((~~and~~))

(d) Amounts paid to a managed health care system by the basic health plan for participating in the basic health plan and providing health care services for nonsubsidized enrollees in the basic health plan must comply with RCW 48.14.0201; and

(e) Administrative simplification requirements as provided in this act.

(2) The purpose of the 1994 amendatory language to this section in chapter 309, Laws of 1994 is to clarify the intent of the legislature that premiums paid on behalf of nonsubsidized enrollees in the basic health plan are subject to the premium and prepayment tax. The legislature does not consider this clarifying language to either raise existing taxes nor to impose a tax that did not exist previously.

NEW SECTION. **Sec. 5.** (1) The commissioner shall designate one or more lead organizations to coordinate development of processes, guidelines, and standards to streamline health care administration and to be adopted by payors and providers of health

care services operating in the state. The lead organization designated by the commissioner for this act shall:

(a) Be representative of providers and payors across the state;

(b) Have expertise and knowledge in the major disciplines related to health care administration; and

(c) Be able to support the costs of its work without recourse to public funding.

(2) The lead organization shall:

(a) In collaboration with the commissioner, identify and convene work groups, as needed, to define the processes, guidelines, and standards required in sections 6 through 10 of this act;

(b) In collaboration with the commissioner, promote the participation of representatives of health care providers, payors of health care services, and others whose expertise would contribute to streamlining health care administration;

(c) Conduct outreach and communication efforts to maximize adoption of the guidelines, standards, and processes developed by the lead organization;

(d) Submit regular updates to the commissioner on the progress implementing the requirements of this act; and

(e) With the commissioner, report to the legislature annually through December 1, 2012, on progress made, the time necessary for completing tasks, and identification of future tasks that should be prioritized for the next improvement cycle.

(3) The commissioner shall:

(a) Participate in and review the work and progress of the lead organization, including the establishment and operation of work groups for this act;

(b) Adopt into rule, or submit as proposed legislation, the guidelines, standards, and processes set forth in this act if:

(i) The lead organization fails to timely develop or implement the guidelines, standards, and processes set forth in sections 6 through 10 of this act; or

(ii) It is unlikely that there will be widespread adoption of the guidelines, standards, and processes developed under this act;

(c) Consult with the office of the attorney general to determine whether an antitrust safe harbor is necessary to enable licensed carriers and providers to develop common rules and standards; and, if necessary, take steps, such as implementing rules or requesting legislation, to establish such safe harbor; and

(d) Convene an executive level work group with broad payor and provider representation to advise the commissioner regarding the goals and progress of implementation of the requirements of this act.

NEW SECTION. **Sec. 6.** By December 31, 2010, the lead organization shall:

(1) Develop a uniform electronic process for collecting and transmitting the necessary provider-supplied data to support credentialing, admitting privileges, and other related processes that:

(a) Reduces the administrative burden on providers;

(b) Improves the quality and timeliness of information for hospitals and payors;

(c) Is interoperable with other relevant systems;

(d) Enables use of the data by authorized participants for other related applications; and

(e) Serves as the sole source of credentialing information required by hospitals and payors from providers for data elements included in the electronic process, except this shall not prohibit:

(i) A hospital, payor, or other credentialing entity subject to the requirements of this section from seeking clarification of information obtained through use of the uniform electronic process, if such clarification is reasonably necessary to complete the credentialing process; or

(ii) A hospital, payor, other credentialing entity, or a university from using information not provided by the uniform process for the purpose of credentialing, admitting privileges, or faculty appointment of providers, including peer review and coordinated quality improvement information, that is obtained from sources other than the provider;

(2) Promote widespread adoption of such process by payors and hospitals, their delegates, and subcontractors in the state that credential health professionals and by such health professionals as soon as possible thereafter; and

(3) Work with the secretary to assure that data used in the uniform electronic process can be electronically exchanged with the department of health professional licensing process under chapter 18.122 RCW.

NEW SECTION. **Sec. 7.** A new section is added to chapter 18.122 RCW to read as follows:

Pursuant to sections 5 and 6 of this act, the secretary or his or her designee shall participate in the work groups and, within funds appropriated specifically for this purpose, implement the standards to enable the department to transmit data to and receive data from the uniform process.

NEW SECTION. **Sec. 8.** The lead organization shall:

(1) Establish a uniform standard companion document and data set for electronic eligibility and coverage verification. Such a companion guide will:

(a) Be based on nationally accepted ANSI X12 270/271 standards for eligibility inquiry and response and, wherever possible, be consistent with the standards adopted by nationally recognized organizations, such as the centers for medicare and medicaid services;

(b) Enable providers and payors to exchange eligibility requests and responses on a system-to-system basis or using a payor supported web browser;

(c) Provide reasonably detailed information on a consumer's eligibility for health care coverage, scope of benefits, limitations and exclusions provided under that coverage, cost-sharing requirements for specific services at the specific time of the inquiry, current deductible amounts, accumulated or limited benefits, out-of-pocket maximums, any maximum policy amounts, and other information required for the provider to collect the patient's portion of the bill; and

(d) Reflect the necessary limitations imposed on payors by the originator of the eligibility and benefits information;

(2) Recommend a standard or common process to the commissioner to protect providers and hospitals from the costs of, and payors from claims for, services to patients who are ineligible for insurance coverage in circumstances where a payor provides eligibility verification based on best information available to the payor at the date of the request; and

(3) Complete, disseminate, and promote widespread adoption by payors of such document and data set by December 31, 2010.

NEW SECTION. **Sec. 9.** (1) By December 31, 2010, the lead organization shall develop implementation guidelines and promote widespread adoption of such guidelines for:

(a) The use of the national correct coding initiative code edit policy by payors and providers in the state;

(b) Publishing any variations from component codes, mutually exclusive codes, and status b codes by payors in a manner that makes for simple retrieval and implementation by providers;

(c) Use of health insurance portability and accountability act standard group codes, reason codes, and remark codes by payors in electronic remittances sent to providers;

(d) The processing of corrections to claims by providers and payors; and

(e) A standard payor denial review process for providers when they request a reconsideration of a denial of a claim that results from differences in clinical edits where no single, common standards body or process exists and multiple conflicting sources are in use by payors and providers.

(2) By October 31, 2010, the lead organization shall develop a proposed set of goals and work plan for additional code standardization efforts for 2011 and 2012.

(3) Nothing in this section or in the guidelines developed by the lead organization shall inhibit an individual payor's ability to employ, and not disclose to providers, temporary code edits for the purpose of detecting and deterring fraudulent billing activities. Though such temporary code edits are not required to be disclosed to providers, the guidelines shall require that:

(a) Each payor disclose to the provider its adjudication decision on a claim that was denied or adjusted based on the application of such an edit; and

(b) The provider have access to the payor's review and appeal process to challenge the payor's adjudication decision, provided that nothing in this subsection (3)(b) shall be construed to modify the rights or obligations of payors or providers with respect to procedures relating to the investigation, reporting, appeal, or prosecution under applicable law of potentially fraudulent billing activities.

NEW SECTION. **Sec. 10.** (1) By December 31, 2010, the lead organization shall:

(a) Develop and promote widespread adoption by payors and providers of guidelines to:

(i) Ensure payors do not automatically deny claims for services when extenuating circumstances make it impossible for the provider to: (A) Obtain a preauthorization before services are performed; or (B) notify a payor within twenty-four hours of a patient's admission; and

(ii) Require payors to use common and consistent time frames when responding to provider requests for medical management approvals. Whenever possible, such time frames shall be consistent with those established by leading national organizations and be based upon the acuity of the patient's need for care or treatment;

(b) Develop, maintain, and promote widespread adoption of a single common web site where providers can obtain payors' preauthorization, benefits advisory, and preadmission requirements;

(c) Establish guidelines for payors to develop and maintain a web site that providers can employ to:

(i) Request a preauthorization, including a prospective clinical necessity review;

(ii) Receive an authorization number; and

(iii) Transmit an admission notification.

(2) By October 31, 2010, the lead organization shall propose to the commissioner a set of goals and work plan for the development of medical management protocols, including whether to develop evidence- based medical management practices addressing specific clinical conditions and make its recommendation to the commissioner, who shall report the lead organization's findings and recommendations to the legislature.

NEW SECTION. **Sec. 11.** Sections 2, 5, 6, and 8 through 10 of this act constitute a new chapter in Title 48 RCW."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Keiser moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5346.

Senators Keiser and Pflug spoke in favor of the motion.

MOTION

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

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5346.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5346 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5346, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5346, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 3; Excused, 3.

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

Absent: Senators Brandland, Brown and Hargrove

Excused: Senators Fraser, Prentice and Regala

SECOND SUBSTITUTE SENATE BILL NO. 5346, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Delvin, Senator Brandland was excused.

MESSAGE FROM THE HOUSE

April 13, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5401 with the following amendment: 5401-S AMH AGNR H2947.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 76.09.040 and 2000 c 11 s 3 are each amended to read as follows:

(1) Where necessary to accomplish the purposes and policies stated in RCW 76.09.010, and to implement the provisions of this chapter, the board shall adopt forest practices rules pursuant to chapter 34.05 RCW and in accordance with the procedures enumerated in this section that:

(a) Establish minimum standards for forest practices;

(b) Provide procedures for the voluntary development of resource management plans which may be adopted as an alternative to the minimum standards in (a) of this subsection if the plan is consistent with the purposes and policies stated in RCW 76.09.010 and the plan meets or exceeds the objectives of the minimum standards;

(c) Set forth necessary administrative provisions;

(d) Establish procedures for the collection and administration of forest practice fees as set forth by this chapter; and

(e) Allow for the development of watershed analyses.

Forest practices rules pertaining to water quality protection shall be adopted by the board after reaching agreement with the director of the department of ecology or the director's designee on the board with respect thereto. All other forest practices rules shall be adopted by the board.

Forest practices rules shall be administered and enforced by either the department or the local governmental entity as provided in this chapter. Such rules shall be adopted and administered so as to give consideration to all purposes and policies set forth in RCW 76.09.010.

(2) The board shall prepare proposed forest practices rules. In addition to any forest practices rules relating to water quality protection proposed by the board, the department of ecology may submit to the board proposed forest practices rules relating to water quality protection.

Prior to initiating the rule-making process, the proposed rules shall be submitted for review and comments to the department of fish and wildlife and to the counties of the state. After receipt of the proposed forest practices rules, the department of fish and wildlife

and the counties of the state shall have thirty days in which to review and submit comments to the board, and to the department of ecology with respect to its proposed rules relating to water quality protection. After the expiration of such thirty day period the board and the department of ecology shall jointly hold one or more hearings on the proposed rules pursuant to chapter 34.05 RCW. At such hearing(s) any county may propose specific forest practices rules relating to problems existing within such county. The board may adopt and the department of ecology may approve such proposals if they find the proposals are consistent with the purposes and policies of this chapter.

(3) The board shall establish by rule a program for the acquisition of riparian open space ((~~program that includes acquisition of a fee interest in, or at the landowner's option, a conservation easement on~~)) and critical habitat for threatened or endangered species as designated by the board. Acquisition must be a conservation easement. Lands eligible for acquisition are forest lands within unconfined ((~~avulsing~~)) channel migration zones or forest lands containing critical habitat for threatened or endangered species as designated by the board. Once acquired, these lands may be held and managed by the department, transferred to another state agency, transferred to an appropriate local government agency, or transferred to a private nonprofit nature conservancy corporation, as defined in RCW 64.04.130, in fee or transfer of management obligation. The board shall adopt rules governing the acquisition by the state or donation to the state of such interest in lands including the right of refusal if the lands are subject to unacceptable liabilities. The rules shall include definitions of qualifying lands, priorities for acquisition, and provide for the opportunity to transfer such lands with limited warranties and with a description of boundaries that does not require full surveys where the cost of securing the surveys would be unreasonable in relation to the value of the lands conveyed. The rules shall provide for the management of the lands for ecological protection or fisheries enhancement. ((~~Because there are few, if any, comparable sales of forest land within unconfined avulsing channel migration zones, separate from the other lands or assets, these lands are likely to be extraordinarily difficult to appraise and the cost of a conventional appraisal often would be unreasonable in relation to the value of the land involved. Therefore, for the purposes of voluntary sales under this section, the legislature declares that these lands are presumed to have a value equal to: (a) The acreage in the sale multiplied by the average value of commercial forest land in the region under the land value tables used for property tax purposes under RCW 84.33.120; plus (b) the cruised volume of any timber located within the channel migration multiplied by the appropriate quality code stumpage value for timber of the same species shown on the appropriate table used for timber harvest excise tax purposes under RCW 84.33.091. For purposes of this section, there shall be an eastside region and a westside region as defined in the forests and fish report as defined in RCW 76.09.020.~~)) For the purposes of conservation easements entered into under this section, the following apply: (a) For conveyances of a conservation easement in which the landowner conveys an interest in the trees only, the compensation must include the timber value component, as determined by the cruised volume of any timber located within the channel migration zone or critical habitat for threatened or endangered species as designated by the board, multiplied by the appropriate quality code stumpage value for timber of the same species shown on the appropriate table used for timber harvest excise tax purposes under RCW 84.33.091; (b) for conveyances of a conservation easement in which the landowner conveys interests in both land and trees, the compensation must include the timber value component in (a) of this subsection plus such portion of the land value component as determined just and equitable by the department. The land value component must be the acreage of qualifying channel migration zone or critical habitat for threatened or endangered species as determined by the board, to be conveyed, multiplied by the average per acre value of all commercial forest land in western Washington or the average for eastern Washington, whichever average is applicable to the qualifying lands. The department must determine the western and eastern Washington averages based on the land value tables established by RCW 84.33.140 and revised annually by the department of revenue.

(4) Subject to appropriations sufficient to cover the cost of such an acquisition program and the related costs of administering the program, the department ((~~is directed to purchase a fee interest or, at the owner's option,~~)) must establish a conservation easement in land that an owner tenders for purchase; provided that such lands have been taxed as forest lands and are located within an unconfined ((~~avulsing~~)) channel migration zone or contain critical habitat for threatened or endangered species as designated by the board. Lands acquired under this section shall become riparian or habitat open space. These acquisitions shall not be deemed to trigger the compensating tax of chapters 84.33 and 84.34 RCW.

(5) Instead of offering to sell interests in qualifying lands, owners may elect to donate the interests to the state.

(6) Any acquired interest in qualifying lands by the state under this section shall be managed as riparian open space or critical habitat.

Sec. 2. RCW 84.33.140 and 2007 c 54 s 24 are each amended to read as follows:

(1) When land has been designated as forest land under RCW 84.33.130, a notation of the designation shall be made each year upon the assessment and tax rolls. A copy of the notice of approval together with the legal description or assessor's parcel numbers for the land shall, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded.

(2) In preparing the assessment roll as of January 1, 2002, for taxes payable in 2003 and each January 1st thereafter, the assessor shall list each parcel of designated forest land at a value with respect to the grade and class provided in this subsection and adjusted as provided in subsection (3) of this section. The assessor shall compute the assessed value of the land using the same assessment ratio applied generally in computing the assessed value of other property in the county. Values for the several grades of bare forest land shall be as follows:

LAND GRADE	OPERABILITY CLASS	VALUES PER ACRE
	1	$234
1	2	229
	3	217
	4	157
	1	198
2	2	190
	3	183
	4	132
	1	154
3	2	149
	3	148
	4	113
	1	117
4	2	114
	3	113
	4	86
	1	85
5	2	78
	3	77
	4	52
	1	43
6	2	39
	3	39
	4	37
	1	21
7	2	21
	3	20
	4	20
8		1

(3) On or before December 31, 2001, the department shall adjust by rule under chapter 34.05 RCW, the forest land values contained in subsection (2) of this section in accordance with this subsection, and shall certify the adjusted values to the assessor who will use these values in preparing the assessment roll as of January 1, 2002. For the adjustment to be made on or before December 31, 2001, for use in the 2002 assessment year, the department shall:

(a) Divide the aggregate value of all timber harvested within the state between July 1, 1996, and June 30, 2001, by the aggregate harvest volume for the same period, as determined from the harvester excise tax returns filed with the department under RCW 84.33.074; and

(b) Divide the aggregate value of all timber harvested within the state between July 1, 1995, and June 30, 2000, by the aggregate harvest volume for the same period, as determined from the harvester excise tax returns filed with the department under RCW 84.33.074; and

(c) Adjust the forest land values contained in subsection (2) of this section by a percentage equal to one-half of the percentage change in the average values of harvested timber reflected by comparing the resultant values calculated under (a) and (b) of this subsection.

(4) For the adjustments to be made on or before December 31, 2002, and each succeeding year thereafter, the same procedure described in subsection (3) of this section shall be followed using harvester excise tax returns filed under RCW 84.33.074. However, this adjustment shall be made to the prior year's adjusted value, and the five-year periods for calculating average harvested timber values shall be successively one year more recent.

(5) Land graded, assessed, and valued as forest land shall continue to be so graded, assessed, and valued until removal of designation by the assessor upon the occurrence of any of the following:

(a) Receipt of notice from the owner to remove the designation;

(b) Sale or transfer to an ownership making the land exempt from ad valorem taxation;

(c) Sale or transfer of all or a portion of the land to a new owner, unless the new owner has signed a notice of forest land designation continuance, except transfer to an owner who is an heir or devisee of a deceased owner, shall not, by itself, result in removal of designation. The signed notice of continuance shall be attached to the real estate excise tax affidavit provided for in RCW 82.45.150. The notice of continuance shall be on a form prepared by the department. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all compensating taxes calculated under subsection (11) of this section shall become due and payable by the seller or transferor at time of sale. The auditor shall not accept an instrument of conveyance regarding designated forest land for filing or recording unless the new owner has signed the notice of continuance or the compensating tax has been paid, as evidenced by the real estate excise tax stamp affixed thereto by the treasurer. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (11) of this section to the county board of equalization in accordance with the provisions of RCW 84.40.038. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals;

(d) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that:

(i) The land is no longer primarily devoted to and used for growing and harvesting timber. However, land shall not be removed from designation if a governmental agency, organization, or other recipient identified in subsection (13) or (14) of this section as exempt from the payment of compensating tax has manifested its intent in writing or by other official action to acquire a property interest in the designated forest land by means of a transaction that qualifies for an exemption under subsection (13) or (14) of this section. The governmental agency, organization, or recipient shall annually provide the assessor of the county in which the land is located reasonable evidence in writing of the intent to acquire the designated land as long as the intent continues or within sixty days of a request by the assessor. The assessor may not request this evidence more than once in a calendar year;

(ii) The owner has failed to comply with a final administrative or judicial order with respect to a violation of the restocking, forest management, fire protection, insect and disease control, and forest debris provisions of Title 76 RCW or any applicable rules under Title 76 RCW; or

(iii) Restocking has not occurred to the extent or within the time specified in the application for designation of such land.

(6) Land shall not be removed from designation if there is a governmental restriction that prohibits, in whole or in part, the owner from harvesting timber from the owner's designated forest land. If only a portion of the parcel is impacted by governmental restrictions of this nature, the restrictions cannot be used as a basis to remove the remainder of the forest land from designation under this chapter. For the purposes of this section, "governmental restrictions" includes: (a) Any law, regulation, rule, ordinance, program, or other action adopted or taken by a federal, state, county, city, or other governmental entity; or (b) the land's zoning or its presence within an urban growth area designated under RCW 36.70A.110.

(7) The assessor shall have the option of requiring an owner of forest land to file a timber management plan with the assessor upon the occurrence of one of the following:

(a) An application for designation as forest land is submitted; or

(b) Designated forest land is sold or transferred and a notice of continuance, described in subsection (5)(c) of this section, is signed.

(8) If land is removed from designation because of any of the circumstances listed in subsection (5)(a) through (c) of this section, the removal shall apply only to the land affected. If land is removed from designation because of subsection (5)(d) of this section, the removal shall apply only to the actual area of land that is no longer primarily devoted to the growing and harvesting of timber, without regard to any other land that may have been included in the application and approved for designation, as long as the remaining designated forest land meets the definition of forest land contained in RCW 84.33.035.

(9) Within thirty days after the removal of designation as forest land, the assessor shall notify the owner in writing, setting forth the reasons for the removal. The seller, transferor, or owner may appeal the removal to the county board of equalization in accordance with the provisions of RCW 84.40.038.

(10) Unless the removal is reversed on appeal a copy of the notice of removal with a notation of the action, if any, upon appeal, together with the legal description or assessor's parcel numbers for the land removed from designation shall, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded and a notation of removal from designation shall immediately be made upon the assessment and tax rolls. The assessor shall revalue the land to be removed with reference to its true and fair value as of January 1st of the year of removal from designation. Both the assessed value before and after the removal of designation shall be listed. Taxes based on the value of the land as forest land shall be assessed and payable up until the date of removal and taxes based on the true and fair value of the land shall be assessed and payable from the date of removal from designation.

(11) Except as provided in subsection (5)(c), (13), or (14) of this section, a compensating tax shall be imposed on land removed from designation as forest land. The compensating tax shall be due and payable to the treasurer thirty days after the owner is notified of the amount of this tax. As soon as possible after the land is removed from designation, the assessor shall compute the amount of compensating tax and mail a notice to the owner of the amount of compensating tax owed and the date on which payment of this tax is due. The amount of compensating tax shall be equal to the difference between the amount of tax last levied on the land as designated forest land and an amount equal to the new assessed value of the land multiplied by the dollar rate of the last levy extended against the land, multiplied by a number, in no event greater than nine, equal to the number of years for which the land was designated as forest land, plus compensating taxes on the land at

forest land values up until the date of removal and the prorated taxes on the land at true and fair value from the date of removal to the end of the current tax year.

(12) Compensating tax, together with applicable interest thereon, shall become a lien on the land which shall attach at the time the land is removed from designation as forest land and shall have priority to and shall be fully paid and satisfied before any 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 as provided in RCW 84.64.050. Any compensating tax unpaid on its due date shall thereupon become delinquent. From the date of delinquency until paid, interest shall be charged at the same rate applied by law to delinquent ad valorem property taxes.

(13) The compensating tax specified in subsection (11) of this section shall not be imposed if the removal of designation under subsection (5) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other forest land located within the state of Washington;

(b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;

(c) A donation of fee title, development rights, or the right to harvest timber, to a government agency or organization qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections, or the sale or transfer of fee title to a governmental entity or a nonprofit nature conservancy corporation, as defined in RCW 64.04.130, exclusively for the protection and conservation of lands recommended for state natural area preserve purposes by the natural heritage council and natural heritage plan as defined in chapter 79.70 RCW or approved for state natural resources conservation area purposes as defined in chapter 79.71 RCW. At such time as the land is not used for the purposes enumerated, the compensating tax specified in subsection (11) of this section shall be imposed upon the current owner;

(d) The sale or transfer of fee title to the parks and recreation commission for park and recreation purposes;

(e) Official action by an agency of the state of Washington or by the county or city within which the land is located that disallows the present use of the land;

(f) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;

(g) The creation, sale, or transfer of a ((~~fee interest or a~~)) conservation easement ((~~for the riparian open space program~~)) of private forest lands within unconfined channel migration zones or containing critical habitat for threatened or endangered species under RCW 76.09.040; or

(h) The sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in the land if the land has been assessed and valued as classified forest land, designated as forest land under this chapter, or classified under chapter 84.34 RCW continuously since 1993. The date of death shown on a death certificate is the date used for the purposes of this subsection (13)(h).

(14) In a county with a population of more than one million inhabitants, the compensating tax specified in subsection (11) of this section shall not be imposed if the removal of designation as forest land under subsection (5) of this section resulted solely from:

(a) An action described in subsection (13) of this section; or

(b) A transfer of a property interest to a government entity, or to a nonprofit historic preservation corporation or nonprofit nature conservancy corporation, as defined in RCW 64.04.130, to protect or enhance public resources, or to preserve, maintain, improve, restore, limit the future use of, or otherwise to conserve for public use or enjoyment, the property interest being transferred. At such time as the property interest is not used for the purposes enumerated, the compensating tax shall be imposed upon the current owner.

Sec. 3. RCW 84.34.108 and 2007 c 54 s 25 are each amended to read as follows:

(1) When land has once been classified under this chapter, a notation of the classification shall be made each year upon the assessment and tax rolls and the land shall be valued pursuant to RCW 84.34.060 or 84.34.065 until removal of all or a portion of the classification by the assessor upon occurrence of any of the following:

(a) Receipt of notice from the owner to remove all or a portion of the classification;

(b) Sale or transfer to an ownership, except a transfer that resulted from a default in loan payments made to or secured by a governmental agency that intends to or is required by law or regulation to resell the property for the same use as before, making all or a portion of the land exempt from ad valorem taxation;

(c) Sale or transfer of all or a portion of the land to a new owner, unless the new owner has signed a notice of classification continuance, except transfer to an owner who is an heir or devisee of a deceased owner shall not, by itself, result in removal of classification. The notice of continuance shall be on a form prepared by the department. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all additional taxes calculated pursuant to subsection (4) of this section shall become due and payable by the seller or transferor at time of sale. The auditor shall not accept an instrument of conveyance regarding classified land for filing or recording unless the new owner has signed the notice of continuance or the additional tax has been paid, as evidenced by the real estate excise tax stamp affixed thereto by the treasurer. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (4) of this section to the county board of equalization in accordance with the provisions of RCW 84.40.038. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals;

(d) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that all or a portion of the land no longer meets the criteria for classification under this chapter. The criteria for classification pursuant to this chapter continue to apply after classification has been granted.

The granting authority, upon request of an assessor, shall provide reasonable assistance to the assessor in making a determination whether the land continues to meet the qualifications of RCW 84.34.020 (1) or (3). The assistance shall be provided within thirty days of receipt of the request.

(2) Land may not be removed from classification because of:

(a) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120; or

(b) The creation, sale, or transfer of a fee interest or a conservation easement for the riparian open space program under RCW 76.09.040.

(3) Within thirty days after such removal of all or a portion of the land from current use classification, the assessor shall notify the owner in writing, setting forth the reasons for the removal. The seller, transferor, or owner may appeal the removal to the county board of equalization in accordance with the provisions of RCW 84.40.038.

(4) Unless the removal is reversed on appeal, the assessor shall revalue the affected land with reference to its true and fair value on January 1st of the year of removal from classification. Both the assessed valuation before and after the removal of classification shall be listed and taxes shall be allocated according to that part of the year to which each assessed valuation applies. Except as provided in subsection (6) of this section, an additional tax, applicable interest, and penalty shall be imposed which shall be due and payable to the treasurer thirty days after the owner is notified of the amount of the additional tax. As soon as possible, the assessor shall compute the amount of additional tax, applicable interest, and penalty and the treasurer shall mail notice to the owner of the amount thereof and the date on which payment is due. The amount of the additional tax, applicable interest, and penalty shall be determined as follows:

(a) The amount of additional tax shall be equal to the difference between the property tax paid as "open space land," "farm and agricultural land," or "timber land" and the amount of property tax

otherwise due and payable for the seven years last past had the land not been so classified;

(b) The amount of applicable interest shall be equal to the interest upon the amounts of the additional tax paid 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 land had been assessed at a value without regard to this chapter;

(c) The amount of the penalty shall be as provided in RCW 84.34.080. The penalty shall not be imposed if the removal satisfies the conditions of RCW 84.34.070.

(5) Additional tax, applicable interest, and penalty, shall become a lien on the land which shall attach at the time the land is removed from classification under this chapter and shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation or responsibility to or with which the land may become charged or liable. This 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 as provided in RCW 84.64.050. Any additional tax unpaid on its due date shall thereupon become delinquent. From the date of delinquency until paid, interest shall be charged at the same rate applied by law to delinquent ad valorem property taxes.

(6) The additional tax, applicable interest, and penalty specified in subsection (4) of this section shall not be imposed if the removal of classification pursuant to subsection (1) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other land located within the state of Washington;

(b)(i) A taking through the exercise of the power of eminent domain, or (ii) sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power, said entity having manifested its intent in writing or by other official action;

(c) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the landowner changing the use of the property;

(d) Official action by an agency of the state of Washington or by the county or city within which the land is located which disallows the present use of the land;

(e) Transfer of land to a church when the land would qualify for exemption pursuant to RCW 84.36.020;

(f) Acquisition of property interests by state agencies or agencies or organizations qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections. At such time as these property interests are not used for the purposes enumerated in RCW 84.34.210 and 64.04.130 the additional tax specified in subsection (4) of this section shall be imposed;

(g) Removal of land classified as farm and agricultural land under RCW 84.34.020(2)(e);

(h) Removal of land from classification after enactment of a statutory exemption that qualifies the land for exemption and receipt of notice from the owner to remove the land from classification;

(i) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;

(j) The creation, sale, or transfer of a ((~~fee interest or a~~)) conservation easement ((~~for the riparian open space program~~)) of private forest lands within unconfined channel migration zones or containing critical habitat for threatened or endangered species under RCW 76.09.040; or

(k) The sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in the land if the land has been assessed and valued as classified forest land, designated as forest land under chapter 84.33 RCW, or classified under this chapter continuously since 1993. The date of death shown on a death certificate is the date used for the purposes of this subsection (6)(k).

Sec. 4. RCW 76.09.020 and 2003 c 311 s 3 are each amended to read as follows:

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

(1) "Adaptive management" means reliance on scientific methods to test the results of actions taken so that the management and related policy can be changed promptly and appropriately.

(2) "Appeals board" means the forest practices appeals board created by RCW 76.09.210.

(3) "Aquatic resources" includes water quality, salmon, other species of the vertebrate classes Cephalaspidomorphi and Osteichthyes identified in the forests and fish report, the Columbia torrent salamander *(Rhyacotriton kezeri)*, the Cascade torrent salamander *(Rhyacotriton cascadae)*, the Olympic torrent salamander *(Rhyacotriton olympian)*, the Dunn's salamander *(Plethodon dunni)*, the Van Dyke's salamander *(Plethodon vandyke)*, the tailed frog *(Ascaphus truei)*, and their respective habitats.

(4) "Commissioner" means the commissioner of public lands.

(5) "Contiguous" means land adjoining or touching by common corner or otherwise. Land having common ownership divided by a road or other right-of-way shall be considered contiguous.

(6) "Conversion to a use other than commercial timber operation" means a bona fide conversion to an active use which is incompatible with timber growing and as may be defined by forest practices rules.

(7) "Department" means the department of natural resources.

(8) "Fish passage barrier" means any artificial instream structure that impedes the free passage of fish.

(9) "Forest land" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing. Forest land does not include agricultural land that is or was enrolled in the conservation reserve enhancement program by contract if such agricultural land was historically used for agricultural purposes and the landowner intends to continue to use the land for agricultural purposes in the future. As it applies to the operation of the road maintenance and abandonment plan element of the forest practices rules on small forest landowners, the term "forest land" excludes:

(a) Residential home sites, which may include up to five acres; and

(b) Cropfields, orchards, vineyards, pastures, feedlots, fish pens, and the land on which appurtenances necessary to the production, preparation, or sale of crops, fruit, dairy products, fish, and livestock exist.

(10) "Forest landowner" means any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner. However, any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest landowner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

(11) "Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

(a) Road and trail construction;

(b) Harvesting, final and intermediate;

(c) Precommercial thinning;

(d) Reforestation;

(e) Fertilization;

(f) Prevention and suppression of diseases and insects;

(g) Salvage of trees; and

(h) Brush control.

"Forest practice" shall not include preparatory work such as tree marking, surveying and road flagging, and removal or harvesting of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber, or public resources.

(12) "Forest practices rules" means any rules adopted pursuant to RCW 76.09.040.

(13) "Forest road," as it applies to the operation of the road maintenance and abandonment plan element of the forest practices rules on small forest landowners, means a road or road segment that

crosses land that meets the definition of forest land, but excludes residential access roads.

(14) "Forest trees" does not include hardwood trees cultivated by agricultural methods in growing cycles shorter than fifteen years if the trees were planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees. "Forest trees" includes Christmas trees, but does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33.035.

(15) "Forests and fish report" means the forests and fish report to the board dated April 29, 1999.

(16) "Application" means the application required pursuant to RCW 76.09.050.

(17) "Operator" means any person engaging in forest practices except an employee with wages as his or her sole compensation.

(18) "Person" means any individual, partnership, private, public, or municipal corporation, county, the department or other state or local governmental entity, or association of individuals of whatever nature.

(19) "Public resources" means water, fish and wildlife, and in addition shall mean capital improvements of the state or its political subdivisions.

(20) "Small forest landowner" has the same meaning as defined in RCW 76.09.450.

(21) "Timber" means forest trees, standing or down, of a commercial species, including Christmas trees. However, "timber" does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33.035.

(22) "Timber owner" means any person having all or any part of the legal interest in timber. Where such timber is subject to a contract of sale, "timber owner" shall mean the contract purchaser.

(23) "Board" means the forest practices board created in RCW 76.09.030.

(24) "Unconfined ((~~avulsing~~)) channel migration zone" means the area within which the active channel of an unconfined ((~~avulsing~~)) stream is prone to move and where the movement would result in a potential near-term loss of riparian forest adjacent to the stream. Sizeable islands with productive timber may exist within the zone.

(25) "Unconfined ((~~avulsing~~)) stream" means generally fifth order or larger waters that experience abrupt shifts in channel location, creating a complex floodplain characterized by extensive gravel bars, disturbance species of vegetation of variable age, numerous side channels, wall-based channels, oxbow lakes, and wetland complexes. Many of these streams have dikes and levees that may temporarily or permanently restrict channel movement."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Jacobsen moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5401.

Senator Jacobsen spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Jacobsen that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5401.

The motion by Senator Jacobsen carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5401 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5401, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5401, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Brandland, Fraser, Prentice and Regala

SUBSTITUTE SENATE BILL NO. 5401, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 14, 2009

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 5501 with the following amendment: 5501-S AMH APPH H3040.3

Strike everything after the enacting clause and insert the following:

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

(1) The inability to securely share critical health information between practitioners inhibits the delivery of safe, efficient care, as evidenced by:

(a) Adverse drug events that result in an average of seven hundred seventy thousand injuries and deaths each year; and

(b) Duplicative services that add to costs and jeopardize patient well-being;

(2) Consumers are unable to act as fully informed participants in their care unless they have ready access to their own health information;

(3) The blue ribbon commission on health care costs and access found that the development of a system to provide electronic access to patient information anywhere in the state was a key to improving health care; and

(4) In 2005, the legislature established a health information infrastructure advisory board to develop a strategy for the adoption and use of health information technologies that are consistent with emerging national standards and promote interoperability of health information systems.

NEW SECTION. **Sec. 2.** A new section is added to chapter 41.05 RCW to read as follows:

The definitions in this section apply throughout sections 3 through 5 of this act unless the context clearly requires otherwise.

(1) "Administrator" means the administrator of the state health care authority under this chapter.

(2) "Exchange" means the methods or medium by which health care information may be electronically and securely exchanged among authorized providers, payors, and patients within Washington state.

(3) "Health care provider" or "provider" has the same meaning as in RCW 48.43.005.

(4) "Health data provider" means an organization that is a primary source for health-related data for Washington residents, including but not limited to:

(a) The children's health immunizations linkages and development profile immunization registry provided by the department of health pursuant to chapter 43.70 RCW;

(b) Commercial laboratories providing medical laboratory testing results;

(c) Prescription drugs clearinghouses, such as the national patient health information network; and

(d) Diagnostic imaging centers.

(5) "Lead organization" means a private sector organization or organizations designated by the administrator to lead development of processes, guidelines, and standards under this act.

(6) "Payor" means public purchasers, as defined in this section, carriers licensed under chapters 48.20, 48.21, 48.44, 48.46, and 48.62 RCW, and the Washington state health insurance pool established in chapter 48.41 RCW.

(7) "Public purchaser" means the department of social and health services, the department of labor and industries, and the health care authority.

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

NEW SECTION. **Sec. 3.** A new section is added to chapter 41.05 RCW to read as follows:

(1) By August 1, 2009, the administrator shall designate one or more lead organizations to coordinate development of processes, guidelines, and standards to:

(a) Improve patient access to and control of their own health care information and thereby enable their active participation in their own care; and

(b) Implement methods for the secure exchange of clinical data as a means to promote:

(i) Continuity of care;

(ii) Quality of care;

(iii) Patient safety; and

(iv) Efficiency in medical practices.

(2) The lead organization designated by the administrator under this section shall:

(a) Be representative of health care privacy advocates, providers, and payors across the state;

(b) Have expertise and knowledge in the major disciplines related to the secure exchange of health data;

(c) Be able to support the costs of its work without recourse to state funding. The administrator and the lead organization are authorized and encouraged to seek federal funds, including funds from the federal American recovery and reinvestment act, as well as solicit, receive, contract for, collect, and hold grants, donations, and gifts to support the implementation of this section and section 4 of this act;

(d) In collaboration with the administrator, identify and convene work groups, as needed, to accomplish the goals of this section and section 4 of this act;

(e) Conduct outreach and communication efforts to maximize the adoption of the guidelines, standards, and processes developed by the lead organization;

(f) Submit regular updates to the administrator on the progress implementing the requirements of this section and section 4 of this act; and

(g) With the administrator, report to the legislature December 1, 2009, and on December 1st of each year through December 1, 2012, on progress made, the time necessary for completing tasks, and identification of future tasks that should be prioritized for the next improvement cycle.

(3) Within available funds as specified in subsection (2)(c) of this section, the administrator shall:

(a) Participate in and review the work and progress of the lead organization, including the establishment and operation of work groups for this section and section 4 of this act; and

(b) Consult with the office of the attorney general to determine whether:

(i) An antitrust safe harbor is necessary to enable licensed carriers and providers to develop common rules and standards; and, if necessary, take steps, such as implementing rules or requesting legislation, to establish a safe harbor; and

(ii) Legislation is needed to limit provider liability if their health records are missing health information despite their participation in the exchange of health information.

(4) The lead organization or organizations shall take steps to minimize the costs that implementation of the processes, guidelines, and standards may have on participating entities, including providers.

NEW SECTION. **Sec. 4.** A new section is added to chapter 41.05 RCW to read as follows:

By December 1, 2011, the lead organization shall, consistent with the federal health insurance portability and accountability act, develop processes, guidelines, and standards that address:

(1) Identification and prioritization of high value health data from health data providers. High value health data include:

(a) Prescriptions;

(b) Immunization records;

(c) Laboratory results;

(d) Allergies; and

(e) Diagnostic imaging;

(2) Processes to request, submit, and receive data;

(3) Data security, including:

(a) Storage, access, encryption, and password protection;

(b) Secure methods for accepting and responding to requests for data;

(c) Handling unauthorized access to or disclosure of individually identifiable patient health information, including penalties for unauthorized disclosure; and

(d) Authentication of individuals, including patients and providers, when requesting access to health information, and maintenance of a permanent audit trail of such requests, including:

(i) Identification of the party making the request;

(ii) The data elements reported; and

(iii) Transaction dates;

(4) Materials written in plain language that explain the exchange of health information and how patients can effectively manage such information, including the use of online tools for that purpose;

(5) Materials for health care providers that explain the exchange of health information and the secure management of such information.

NEW SECTION. **Sec. 5.** A new section is added to chapter 41.05 RCW to read as follows:

If any provision in sections 2 through 4 of this act conflicts with existing or new federal requirements, the administrator shall recommend modifications, as needed, to assure compliance with the aims of sections 2 through 4 of this act and federal requirements."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Keiser moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5501.

Senator Keiser spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5501.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5501 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5501, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5501, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama,

Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brandland, Fraser, Prentice and Regala

SUBSTITUTE SENATE BILL NO. 5501, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 16, 2009

MR. PRESIDENT:
The House has passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5560 with the following amendment: 5560-S2.E AMH ENGR H3099.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that in chapter 14, Laws of 2008, the legislature established greenhouse gas emission reduction limits for Washington state, including a reduction of overall emissions by 2020 to emission levels in 1990, a reduction by 2035 to levels twenty-five percent below 1990 levels, and by 2050 a further reduction below 1990 levels. Based upon estimated 2006 emission levels in Washington, this will require a reduction from present emission levels of over twenty-five percent in the next eleven years. The legislature further finds that state government activities are a significant source of emissions, and that state government should meet targets for reducing emissions from its buildings, vehicles, and all operations that demonstrate that these reductions are achievable, cost-effective, and will help to promote innovative energy efficiency technologies and practices.

NEW SECTION. **Sec. 2.** A new section is added to chapter 70.235 RCW to read as follows:

(1) All state agencies shall meet the statewide greenhouse gas emission limits established in RCW 70.235.020 to achieve the following, using the estimates and strategy established in subsections (2) and (3) of this section:

(a) By July 1, 2020, reduce emissions by fifteen percent from 2005 emission levels;

(b) By 2035, reduce emissions to thirty-six percent below 2005 levels; and

(c) By 2050, reduce emissions to the greater reduction of fifty-seven and one-half percent below 2005 levels, or seventy percent below the expected state government emissions that year.

(2)(a) By June 30, 2010, all state agencies shall report estimates of emissions for 2005 to the department, including 2009 levels of emissions, and projected emissions through 2035.

(b) State agencies required to report under RCW 70.94.151 must estimate emissions from methodologies recommended by the department and must be based on actual operation of those agencies. Agencies not required to report under RCW 70.94.151 shall derive emissions estimates using an emissions calculator provided by the department.

(3) By June 30, 2011, each state agency shall submit to the department a strategy to meet the requirements in subsection (1) of this section. The strategy must address employee travel activities, teleconferencing alternatives, and include existing and proposed actions, a timeline for reductions, and recommendations for budgetary and other incentives to reduce emissions, especially from employee business travel.

(4) By October 1st of each even-numbered year beginning in 2012, each state agency shall report to the department the actions taken to meet the emission reduction targets under the strategy for the preceding fiscal biennium. The department may authorize the department of general administration to report on behalf of any state agency having fewer than five hundred full-time equivalent employees at any time during the reporting period. The department shall cooperate with the department of general administration and the department of community, trade, and economic development to develop consolidated reporting methodologies that incorporate emission reduction actions taken across all or substantially all state agencies.

(5) All state agencies shall cooperate in providing information to the department, the department of general administration, and the department of community, trade, and economic development for the purposes of this section.

(6) The governor shall designate a person as the single point of accountability for all energy and climate change initiatives within state agencies. This position must be funded from current full-time equivalent allocations without increasing budgets or staffing levels. If duties must be shifted within an agency, they must be shifted among current full-time equivalent allocations. All agencies, councils, or work groups with energy or climate change initiatives shall coordinate with this designee.

Sec. 3. RCW 70.235.010 and 2008 c 14 s 2 are each amended to read as follows:

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

(1) "Carbon dioxide equivalents" means a metric measure used to compare the emissions from various greenhouse gases based upon their global warming potential.

(2) "Climate advisory team" means the stakeholder group formed in response to executive order 07-02.

(3) "Climate impacts group" means the University of Washington's climate impacts group.

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

(5) "Direct emissions" means emissions of greenhouse gases from sources of emissions, including stationary combustion sources, mobile combustion emissions, process emissions, and fugitive emissions.

(6) "Director" means the director of the department.

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

(8) "Indirect emissions" means emissions of greenhouse gases associated with the purchase of electricity, heating, cooling, or steam.

(9) "Person" means an individual, partnership, franchise holder, association, corporation, a state, a city, a county, or any subdivision or instrumentality of the state.

(10) "Program" means the department's climate change program.

(11) "Small-scale powered equipment" means a tool or other nonroad or marine machine powered by a gasoline, diesel, or propane spark ignition engine that has a standard manufacturer's listed horsepower rating of fifty horsepower or less. Examples of the term "small-scale powered equipment" include, but are not limited to, the following items when the components of the definition are satisfied: Lawnmowers, string trimmers, leaf blowers, air compressors, chainsaws, turf equipment, and lawn and garden tractors.

(12) "Total emissions of greenhouse gases" means all direct emissions and all indirect emissions.

((~~(12)~~)) (13) "Western climate initiative" means the collaboration of states, Canadian provinces, Mexican states, and tribes to design a multisector market-based mechanism as directed under the western regional climate action initiative signed by the governor on February 22, 2007.

NEW SECTION. **Sec. 4.** A new section is added to chapter 70.235 RCW to read as follows:

(1) As part of satisfying the requirements of section 2 of this act, state agencies are, except as otherwise provided in this section, prohibited from purchasing small-scale powered equipment if the market offers an alternative item that is powered by an electrical cord or rechargeable battery.

(2)(a) The top administrative official of a state agency may waive the provisions of this section on a case-by-case basis if the top

administrative official of the agency publishes a finding in the Washington State Register explaining the details as to why the purchase or use of the small-scale powered equipment was necessary and why the use of an electric-based alternative would have been impractical.

(b) The Washington State Register publication requirements of this section may be satisfied with one annual publication summarizing all instances where the requirements of this section were waived by the top administrative official in the preceding year.

(3) As a demonstration to other state agencies as to how the requirements of this section may be achieved, the department of general administration shall suspend the use of all spark ignition push lawnmowers, string trimmers, and leaf blowers on the capitol campus by October 1, 2009. The department of general administration shall document its transition from small-scale powered equipment to electrical or manual alternatives to aid other state agencies in their implementation of this section.

NEW SECTION. **Sec. 5.** A new section is added to chapter 70.235 RCW to read as follows:

(1) The department shall develop an emissions calculator to assist state agencies in estimating aggregate emissions as well as in estimating the relative emissions from different ways in carrying out activities.

(2) The department may use data such as totals of building space occupied, energy purchases and generation, motor vehicle fuel purchases and total mileage driven, and other reasonable sources of data to make these estimates. The estimates may be derived from a single methodology using these or other factors, except that for the top ten state agencies in occupied building space and vehicle miles driven, the estimates must be based upon the actual and projected operations of those agencies. The estimates may be adjusted, and reasonable estimates derived, when agencies have been created since 1990 or functions reorganized among state agencies since 1990. The estimates may incorporate projected emissions reductions that also affect state agencies under the program authorized in RCW 70.235.020 and other existing policies that will result in emissions reductions.

(3) By December 31st of each even-numbered year beginning in 2010, the department shall report to the governor and to the appropriate committees of the senate and house of representatives the total state agencies' emissions of greenhouse gases for 2005 and the preceding two years and actions taken to meet the emissions reduction targets.

Sec. 6. RCW 43.41.130 and 1982 c 163 s 13 are each amended to read as follows:

The director of financial management, after consultation with other interested or affected state agencies, shall establish overall policies governing the acquisition, operation, management, maintenance, repair, and disposal of, all passenger motor vehicles owned or operated by any state agency. Such policies shall include but not be limited to a definition of what constitutes authorized use of a state owned or controlled passenger motor vehicle and other motor vehicles on official state business. The definition shall include, but not be limited to, the use of state-owned motor vehicles for commuter ride sharing so long as the entire capital depreciation and operational expense of the commuter ride-sharing arrangement is paid by the commuters. Any use other than such defined use shall be considered as personal use. By June 15, 2010, the director of the department of general administration, in consultation with the office and other interested or affected state agencies, shall develop strategies to reduce fuel consumption and emissions from all classes of vehicles. State agencies shall use these strategies to:

(1) Phase in fuel economy standards for motor pools and leased vehicles to achieve an average fuel economy standard of thirty-six miles per gallon for passenger vehicle fleets by 2015;

(2) Achieve an average fuel economy of forty miles per gallon for light duty passenger vehicles purchased after June 15, 2010; and

(3) Achieve an average fuel economy standard of twenty-seven miles per gallon for light duty vans and sport utility vehicles purchased after June 15, 2010.

State agencies must report annually on the progress made to achieve the goals under subsections (1) through (3) of this section beginning October 31, 2011.

The department of general administration, in consultation with the office and other affected or interested agencies, shall develop a separate fleet fuel economy standard for all other classes of vehicles and report the progress made toward meeting the fuel consumption and emissions goals established by this section to the governor and the relevant legislative committees by December 1, 2012.

For the purposes of this section, light duty vehicles refers to cars, sport utility vehicles, and passenger vans. The following vehicles are excluded from the agency fleet average fuel economy calculation: Emergency response vehicles, passenger vans with a gross vehicle weight of eight thousand five hundred pounds or greater, vehicles that are purchased for off-pavement use, and vehicles that are driven less than two thousand miles per year. Average fuel economy calculations must be based upon the current United States environmental protection agency composite city and highway mile per gallon rating.

((~~Such policies shall also include the widest possible use of gasohol and cost-effective alternative fuels in all motor vehicles owned or operated by any state agency. As used in this section, "gasohol" means motor vehicle fuel which contains more than nine and one-half percent alcohol by volume.~~))

NEW SECTION. **Sec. 7.** The department of general administration must perform energy performance monitoring from July 2009 to July 2011 on each building that has completed an energy audit and installed energy conservation measures within the last five years and report to the legislature on the cost of the energy conservation measures, the projected energy savings, and the actual energy savings realized.

Sec. 8. RCW 39.35D.010 and 2005 c 12 s 1 are each amended to read as follows:

(1) The legislature finds that public buildings can be built and renovated using high-performance methods that save money, improve school performance, and make workers more productive. High-performance public buildings are proven to increase student test scores, reduce worker absenteeism, and cut energy and utility costs.

(2) It is the intent of the legislature that state-owned buildings and schools be improved by adopting recognized standards for high-performance public buildings, reducing energy consumption, and allowing flexible methods and choices in how to achieve those standards and reductions. The legislature also intends that public agencies and public school districts shall document costs and savings to monitor this program and ensure that economic, community, and environmental goals are achieved each year, and that an independent performance review be conducted to evaluate this program and determine the extent to which the results intended by this chapter are being met.

(3) The legislature further finds that state agency leadership is needed in the development of preparation and adaptation actions for climate change to ensure the economic health, safety, and environmental well-being of the state and its citizens.

NEW SECTION. **Sec. 9.** A new section is added to chapter 70.235 RCW to read as follows:

Beginning in 2010, when distributing capital funds through competitive programs for infrastructure and economic development projects, all state agencies must consider whether the entity receiving the funds has adopted policies to reduce greenhouse gas emissions. Agencies also must consider whether the project is consistent with:

(1) The state's limits on the emissions of greenhouse gases established in RCW 70.235.020;

(2) Statewide goals to reduce annual per capita vehicle miles traveled by 2050, in accordance with RCW 47.01.440, except that the agency shall consider whether project locations in rural counties, as defined in RCW 43.160.020, will maximize the reduction of vehicle miles traveled; and

(3) Applicable federal emissions reduction requirements.

NEW SECTION. **Sec. 10.** (1) The departments of ecology, agriculture, community, trade, and economic development, fish and

wildlife, natural resources, and transportation shall develop an integrated climate change response strategy to better enable state and local agencies, public and private businesses, nongovernmental organizations, and individuals to prepare for, address, and adapt to the impacts of climate change. The integrated climate change response strategy should be developed, where feasible and consistent with the direction of the strategy, in collaboration with local government agencies with climate change preparation and adaptation plans.

(2) The department of ecology shall serve as a central clearinghouse for relevant scientific and technical information about the impacts of climate change on Washington's ecology, economy, and society, as well as serve as a central convener for the development of vital programs and necessary policies to help the state adapt to a rapidly changing climate.

(3) The department of ecology shall consult and collaborate with the departments of fish and wildlife, agriculture, community, trade, and economic development, natural resources, and transportation in developing an integrated climate change response strategy and plans of action to prepare for and adapt to climate change impacts.

NEW SECTION. **Sec. 11.** (1) The integrated climate change response strategy should address the impact of and adaptation to climate change, as well as the regional capacity to undertake actions, existing ecosystem and resource management concerns, and health and economic risks. In addition, the departments of ecology, agriculture, community, trade, and economic development, fish and wildlife, natural resources, and transportation should include a range of scenarios for the purposes of planning in order to assess project vulnerability and, to the extent feasible, reduce expected risks and increase resiliency to the impacts of climate change.

(2)(a) By December 1, 2011, the department of ecology shall compile an initial climate change response strategy, including information and data from the departments of fish and wildlife, agriculture, community, trade, and economic development, natural resources, and transportation that: Summarizes the best known science on climate change impacts to Washington; assesses Washington's vulnerability to the identified climate change impacts; prioritizes solutions that can be implemented within and across state agencies; and identifies recommended funding mechanisms and technical and other essential resources for implementing solutions.

(b) The initial strategy must include:

(i) Efforts to identify priority planning areas for action, based on vulnerability and risk assessments;

(ii) Barriers challenging state and local governments to take action, such as laws, policies, regulations, rules, and procedures that require revision to adequately address adaptation to climate change;

(iii) Opportunities to integrate climate science and projected impacts into planning and decision making; and

(iv) Methods to increase public awareness of climate change, its projected impacts on the community, and to build support for meaningful adaptation policies and strategies.

NEW SECTION. **Sec. 12.** The departments of ecology, agriculture, community, trade, and economic development, fish and wildlife, natural resources, and transportation may consult with qualified nonpartisan experts from the scientific community as needed to assist with developing an integrated climate change response strategy. The qualified nonpartisan experts from the scientific community may assist the department of ecology on the following components:

(1) Identifying the timing and extent of impacts from climate change;

(2) Assessing the effects of climate variability and change in the context of multiple interacting stressors or impacts;

(3) Developing forecasting models;

(4) Determining the resilience of the environment, natural systems, communities, and organizations to deal with potential or actual impacts of climate change and the vulnerability to which a natural or social system is susceptible to sustaining damage from climate change impacts; and

(5) Identifying other issues, as determined by the department of ecology, necessary to develop policies and actions for the integrated climate change response strategy.

NEW SECTION. **Sec. 13.** State agencies shall strive to incorporate adaptation plans of action as priority activities when planning or designing agency policies and programs. Agencies shall consider: The integrated climate change response strategy when designing, planning, and funding infrastructure projects; and incorporating natural resource adaptation actions and alternative energy sources when designing and planning infrastructure projects.

NEW SECTION. **Sec. 14.** Sections 10 through 13 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. **Sec. 15.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2009, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

POINT OF ORDER

Senator Swecker: "The title of Engrossed Second Substitute Senate Bill No. 5560 is 'An act relating to state climate leadership.' The bill sets out certain standards for the state agencies to reduce their green house gas emissions by imposing the following mandates on state agencies: requiring state agencies to meet state wide green house gas emission limits beginning in 2020; requiring the General Administration and OFM to faze in state-owned vehicles with an average fuel economy standard of thirty-six miles per gallon by June of 2015. The House amendment to this bill goes beyond mandates or state agencies to deal with climate change and impose green house by gas emission reduction mandates on the private sector by changing the way the state funds capital projects. Specifically, the amendment requires state agencies, when distributing capital funds, to consider whether the entity receiving the funds has adopted policies to reduce green house gas emissions. They must consider if the project is consistent with the state's limits on green house gas emissions with goals to reduce vehicle miles traveled by 2015 and with applicable federal emissions reductions standards. Critically the bill as passed the senate had no mandates on the private sector regarding reduction of green house gas emissions or the use of fuel efficient vehicles or the reduction in vehicle miles traveled. The House amendments incorporate whether entities can receive capital funds based on their miles traveled, is a different subject from how state agencies can reduce their own green house gas emissions. Thus the amendment is beyond the scope and object of Engrossed Second Substitute Senate Bill No. 5560 and I respectfully request that you rule accordingly."

Senator Ranker spoke against the point of order.

MOTION

On motion of Senator Eide, further consideration of Engrossed Second Substitute Senate Bill No. 5560 was deferred and the bill held its place on the concurrence calendar.

MESSAGE FROM THE HOUSE

April 16, 2009

MR. PRESIDENT:
The House has passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5649 with the following amendment: 5649-S2.E AMH ENGR H3332.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** FINDINGS. (1) The legislature finds that improving energy efficiency in structures is one of the most cost- effective means to meet energy requirements, and that while there have been significant efficiency savings achieved in the state over the past quarter century, there remains enormous potential to achieve even greater savings. Increased weatherization and more extensive efficiency improvements in residential, commercial, and public buildings achieves many benefits, including reducing energy bills, avoiding the construction of new electricity generating facilities with associated climate change impacts, and creation of family-wage jobs in performing energy audits and improvements.

(2) It is the intent of the legislature that financial and technical assistance programs be expanded to direct municipal, state, and federal funds, as well as electric and natural gas utility funding, toward greater achievement of energy efficiency improvements. To this end, the legislature establishes a policy goal of assisting in weatherizing twenty thousand homes and businesses in the state in each of the next five years. The legislature also intends to attain this goal in part through supporting programs that rely on community organizations and that there be maximum family-wage job creation in fields related to energy efficiency.

PART 1
Energy Efficiency Improvement Program

NEW SECTION. **Sec. 101.** DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Customers" means residents, businesses, and building owners.

(2) "Direct outreach" means:

(a) The use of door-to-door contact, community events, and other methods of direct interaction with customers to inform them of energy efficiency and weatherization opportunities; and

(b) The performance of energy audits.

(3) "Energy audit" means an assessment of building energy efficiency opportunities, from measures that require very little investment and without any disruption to building operation, normally involving general building operational measures, to low or relatively higher cost investment, such as installing timers to turn off equipment, replacing light bulbs, installing insulation, replacing equipment and appliances with higher efficiency equipment and appliances, and similar measures. The term includes an assessment of alternatives for generation of heat and power from renewable energy resources, including installation of solar water heating and equipment for photovoltaic electricity generation.

(4) "Energy efficiency and conservation block grant program" means the federal program created under the energy independence and security act of 2007 (P.L. 110-140).

(5) "Energy efficiency services" means energy audits, weatherization, energy efficiency retrofits, energy management systems as defined in RCW 39.35.030, and other activities to reduce a customer's energy consumption, and includes assistance with paperwork, arranging for financing, program design and development, and other postenergy audit assistance and education to help customers meet their energy savings goals.

(6) "Low-income individual" means an individual whose annual household income does not exceed eighty percent of the area median income for the metropolitan, micropolitan, or combined statistical area in which that individual resides as determined annually by the United States department of housing and urban development.

(7) "Sponsor" means any entity or group of entities that submits a proposal under section 102 of this act, including but not limited to any nongovernmental nonprofit organization, local community action agency, tribal nation, community service agency, public service company, county, municipality, publicly owned electric, or natural gas utility.

(8) "Sponsor match" means the share, if any, of the cost of efficiency improvements to be paid by the sponsor.

(9) "Weatherization" means making energy and resource conservation and energy efficiency improvements.

NEW SECTION. **Sec. 102.** The Washington State University extension energy program is authorized to implement grants for pilot programs providing community-wide urban residential and commercial energy efficiency upgrades. The Washington State University extension energy program must coordinate and collaborate with the department of community, trade, and economic development on the design, administration, and implementation elements of the pilot program.

(1) There must be at least three grants for pilot programs, awarded on a competitive basis to sponsors for conducting direct outreach and delivering energy efficiency services that, to the extent feasible, ensure a balance of participation for: (a) Geographic regions in the state; (b) types of fuel used for heating; (c) owner-occupied and rental residences; (d) small commercial buildings; and (e) single- family and multifamily dwellings.

(2) The pilot programs must:

(a) Provide assistance for energy audits and energy efficiency-related improvements to structures owned by or used for residential, commercial, or nonprofit purposes in specified urban neighborhoods where the objective is to achieve a high rate of participation among building owners within the pilot area;

(b) Utilize volunteer support to reach out to potential customers through the use of community-based institutions;

(c) Employ qualified energy auditors and energy efficiency service providers to perform the energy audits using recognized energy efficiency and weatherization services that are cost-effective;

(d) Select and provide oversight of contractors to perform energy efficiency services. Sponsors shall give preference to contractors that participate in quality control and efficiency training, use workers trained from workforce training and apprentice programs established under chapter . . ., Laws of 2009 (Engrossed Second Substitute House Bill No. 2227) if these workers are available, pay prevailing wages, hire from the community in which the program is located, and create employment opportunities for veterans, members of the national guard, and low-income and disadvantaged populations; and

(e) Work with customers to secure financing for their portion of the project and apply for and administer utility, public, and charitable funding provided for energy audits and retrofits.

(3) The Washington State University extension energy program must give priority to sponsors that can secure a sponsor match of at least one dollar for each dollar awarded.

(a) A sponsor may use its own moneys, including corporate or ratepayer moneys, or moneys provided by landlords, charitable groups, government programs, the Bonneville power administration, or other sources to pay the sponsor match.

(b) A sponsor may meet its match requirement in whole or in part through providing labor, materials, or other in-kind expenditures.

(4)(a) Pilot programs receiving funding must report compliance with performance metrics for each sponsor receiving a grant award. The performance metrics include:

(i) Monetary and energy savings achieved;

(ii) Savings-to-investment ratio achieved for customers;

(iii) Wage levels of jobs created;

(iv) Utitilization of preapprentice and apprenticeship programs; and

(v) Efficiency and speed of delivery of services.

(b) Pilot programs receiving funding under this section are required to report to the Washington State University energy extension program on compliance with the performance metrics every six months following the receipt of grants, with the last report submitted six months after program completion.

(c) The Washington State University extension energy program shall review the accuracy of these reports and provide a progress report on all grant pilot programs to the appropriate committees of the legislature by December 1st of each year.

(5)(a) By December 1, 2009, the Washington State University extension energy program shall provide a report to the governor and appropriate legislative committees on the: Number of grants awarded; number of jobs created or maintained; number and type of individuals trained through workforce training and apprentice programs; number of veterans, members of the national guard, and individuals of low-income and disadvantaged populations employed by pilot programs; and amount of funding provided through the grants as established in subsection (1) of this section and the performance metrics established in subsection (4) of this section.

(b) By December 1, 2010, the Washington State University extension energy program shall provide a final report to the governor and appropriate legislative committees on the: Number of grants awarded; number of jobs created or maintained; number and type of individuals trained through workforce training and apprentice programs; number of veterans, members of the national guard, and individuals of low-income and disadvantaged populations employed by pilot programs; and amount of funding provided through the grants as established in subsection (1) of this section and the performance metrics established in subsection (4) of this section.

NEW SECTION. **Sec. 103.** FARM ENERGY ASSESSMENTS. (1) The legislature finds that increasing energy costs put farm viability and competitiveness at risk and that energy efficiency improvements on the farm are the most cost-effective way to manage these costs. The legislature further finds that current on-farm energy efficiency programs often miss opportunities to evaluate and conserve all types of energy, including fuels and fertilizers.

(2) The Washington State University extension energy program, in consultation with the department of agriculture, shall form an interdisciplinary team of agricultural and energy extension agencies to develop and offer new methods to help agricultural producers assess their opportunities to increase energy efficiency in all aspects of their operations. The interdisciplinary team must develop and deploy:

(a) Online energy self-assessment software tools to allow agricultural producers to assess whole-farm energy use and to identify the most cost-effective efficiency opportunities;

(b) Energy auditor training curricula specific to the agricultural sector and designed for use by agricultural producers, conservation districts, agricultural extensions, and commodity groups;

(c) An effective infrastructure of trained energy auditors available to assist agricultural producers with on-farm energy audits and identify cost-share assistance for efficiency improvements; and

(d) Measurement systems for cost savings, energy savings, and carbon emission reduction benefits resulting from efficiency improvements identified by the interdisciplinary team.

(3) The Washington State University extension energy program shall seek to obtain additional resources for this section from federal and state agricultural assistance programs and from other sources.

(4) The Washington State University extension energy program shall provide technical assistance for farm energy assessment activities as specified in this section.

PART 2
Low-Income Weatherization Programs

Sec. 201. RCW 70.164.020 and 1995 c 399 s 199 are each amended to read as follows:

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

(1) "Credit enhancement" means instruments that enhance the security for the payment of the lender's obligations and includes, but is not limited to insurance, letters of credit, lines of credit, or other similar agreements.

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

((~~(2)~~)) (3) "Direct outreach" means:

(a) The use of door-to-door contact, community events, and other methods of direct interaction with customers to inform them of energy efficiency and weatherization opportunities; and

(b) The performance of energy audits.

(4) "Energy ((~~assessment~~)) audit" means an analysis of a dwelling unit to determine the need for cost-effective energy conservation measures as determined by the department.

((~~(3)~~)) (5) "Energy efficiency services" means energy audits, weatherization, energy efficiency retrofits, energy management systems as defined in RCW 39.35.030, and other activities to reduce a customer's energy consumption, and includes assistance with paperwork, arranging for financing, program design and development, and other postenergy audit assistance and education to help customers meet their energy savings goals.

(6) "Financial institution" means any person doing business under the laws of this state or the United States relating to banks, bank holding companies, savings banks, trust companies, savings and loan associations, credit unions, consumer loan companies, equipment leasing and project finance and the affiliates, subsidiaries, and service corporations thereof.

(7) "Household" means an individual or group of individuals living in a dwelling unit as defined by the department.

((~~(4)~~)) (8) "Low income" means household income ((~~that is at or below one hundred twenty-five percent of the federally established poverty level~~)) as defined by the department, provided that the definition may not exceed eighty percent of median household income, adjusted for household size, for the county in which the dwelling unit to be weatherized is located.

((~~(5)~~)) (9) "Nonutility sponsor" means any sponsor other than a public service company, municipality, public utility district, mutual or cooperative, furnishing gas or electricity used to heat low-income residences.

((~~(6)~~)) (10) "Residence" means a dwelling unit as defined by the department.

((~~(7)~~)) (11) "Sponsor" means any entity that submits a proposal under RCW 70.164.040, including but not limited to any local community action agency, tribal nation, community service agency, or any other participating agency or any public service company, municipality, public utility district, mutual or cooperative, or any combination of such entities that jointly submits a proposal.

((~~(8)~~)) (12) "Sponsor match" means the share((~~, if any,~~)) of the cost of weatherization to be paid by the sponsor.

((~~(9)~~)) (13) "Sustainable residential weatherization" or "weatherization" means ((~~materials or measures, and their installation, that are used to improve the thermal efficiency of a residence~~)) activities that use funds administered by the department for one or more of the following: (a) Energy and resource conservation; (b) energy efficiency improvements; (c) repairs, indoor air quality improvements, and health and safety improvements; and (d) client education. Funds administered by the department for activities authorized under this subsection may only be used for the preservation of a dwelling unit occupied by a low-income household and must, to the extent feasible, be used to support and advance sustainable technologies.

((~~(10)~~)) (14) "Weatherizing agency" means any approved department grantee, tribal nation, or any public service company, municipality, public utility district, mutual or cooperative, or other entity that bears the responsibility for ensuring the performance of weatherization of residences under this chapter and has been approved by the department.

Sec. 202. RCW 70.164.040 and 1987 c 36 s 4 are each amended to read as follows:

(1) The department shall solicit proposals for low-income weatherization programs from potential sponsors. A proposal shall state the amount of the sponsor match, the amount requested ((~~from the low-income weatherization assistance account~~)), the name of the weatherizing agency, and any other information required by the department.

(2)(a) A sponsor may use its own moneys, including corporate or ratepayer moneys, or moneys provided by landlords, charitable groups, government programs, the Bonneville power administration, or other sources to pay the sponsor match.

(b) Moneys provided by a sponsor pursuant to requirements in this section shall be in addition to and shall not supplant any funding

for low-income weatherization that would otherwise have been provided by the sponsor or any other entity enumerated in (a) of this subsection.

(c) No proposal may require any contribution as a condition of weatherization from any household whose residence is weatherized under the proposal.

(d) Proposals shall provide that full levels of all cost-effective, structurally feasible, sustainable residential weatherization materials, measures, and practices, as determined by the department, shall be installed when a low-income residence is weatherized.

(3)(a) The department may in its discretion accept, accept in part, or reject proposals submitted. The department shall allocate funds appropriated from the low-income weatherization assistance account among proposals accepted or accepted in part so as to:

(i) Achieve the greatest possible expected monetary and energy savings by low-income households and other energy consumers ((~~and~~)) over the longest period of time;

(ii) Identify and correct, to the extent practical, health and safety problems for residents of low-income households, including asbestos, lead, and mold hazards;

(iii) Create family-wage jobs that may lead to careers in the construction trades or in the energy efficiency sectors; and

(iv) Leverage, to the extent feasible, environmentally friendly sustainable technologies, practices, and designs.

(b) The department shall, to the extent feasible, ensure a balance of participation in proportion to population among low-income households for: (((~~a~~))) (i) Geographic regions in the state; (((~~b~~))) (ii) types of fuel used for heating, except that the department shall encourage the use of energy efficient sustainable technologies; (((~~c~~))) (iii) owner-occupied and rental residences; and (((~~d~~))) (iv) single-family and multifamily dwellings.

(c) The department shall give priority to the weatherization of dwelling units occupied by low-income households with incomes at or below one hundred twenty-five percent of the federally established poverty level.

(d) The department may allocate funds to a nonutility sponsor without requiring a sponsor match if the department determines that such an allocation is necessary to provide the greatest benefits to low-income residents of the state.

(e) The department shall give preference to sponsors that employ individuals trained from workforce training and apprentice programs established under chapter . . ., Laws of 2009 (Engrossed Second Substitute House Bill No. 2227) if these workers are available, and create employment opportunities for veterans, members of the national guard, and low-income and disadvantaged populations.

(4)(a) A sponsor may elect to: (i) Pay a sponsor match as a lump sum at the time of weatherization, or (ii) make yearly payments to the low-income weatherization assistance account over a period not to exceed ten years. If a sponsor elects to make yearly payments, the value of the payments shall not be less than the value of the lump sum payment that would have been made under (a)(i) of this subsection.

(b) The department may permit a sponsor to meet its match requirement in whole or in part through providing labor, materials, or other in-kind expenditures.

(5) Programs receiving funding under this section must report to the department every six months following the receipt of a grant regarding the number of dwelling units weatherized, the number of jobs created or maintained, and the number of individuals trained through workforce training and apprentice programs, with the last report submitted six months after program completion. The director of the department shall review the accuracy of these reports.

(6) The department shall adopt rules to carry out this section.

Sec. 203. RCW 70.164.050 and 1987 c 36 s 5 are each amended to read as follows:

(1) The department is responsible for ensuring that sponsors and weatherizing agencies comply with the state laws, the department's rules, and the sponsor's proposal in carrying out proposals.

(2) Before a residence is weatherized, the department shall require that an energy ((~~assessment~~)) audit be conducted.

(3) To the greatest extent practicable and allowable under federal rules and regulations, the department shall maximize available federal low-income home energy assistance program funding for weatherization projects.

Sec. 204. RCW 70.164.060 and 1987 c 36 s 6 are each amended to read as follows:

Before a leased or rented residence is weatherized, written permission shall be obtained from the owner of the residence for the weatherization. The department shall adopt rules to ensure that: (1) The benefits of weatherization assistance ((~~in connection with a leased or rented residence~~)), including utility bill reduction and preservation of affordable housing stock, accrue primarily to low-income tenants occupying a leased or rented residence; (2) as a result of weatherization provided under this chapter, the rent on the residence is not increased and the tenant is not evicted; and (3) as a result of weatherization provided under this chapter, no undue or excessive enhancement occurs in the value of the residence. This section is in the public interest and any violation by a landlord of the rules adopted under this section shall be an act in trade or commerce violating chapter 19.86 RCW, the consumer protection act.

NEW SECTION. **Sec. 205.** A new section is added to chapter 70.164 RCW to read as follows:

(1) The department must: (a) Establish a process to award grants on a competitive basis to provide grants to financial institutions for the purpose of creating credit enhancements, such as loan loss reserve funds as specified in sections 206 and 208 of this act, and consumer financial products and services that will be used to obtain energy efficiency services; and (b) develop criteria, in consultation with the department of financial institutions, regarding the extent to which funds will be provided for the purposes of credit enhancements and set forth principles for accountability for financial institutions receiving funding for credit enhancements.

(2) The department must:

(a) Give priority to financial institutions that provide both consumer financial products or services and direct outreach;

(b) Approve any financing mechanisms offered by local municipalities under section 208 of this act; and

(c) Require any financial institution or other entity receiving funding for credit enhancements to:

(i) Provide books, accounts, and other records in such a form and manner as the department may require;

(ii) Provide an estimate of projected loan losses; and

(iii) Provide the financial institution's plan to manage loan loss risks, including the rationale for sizing a loan loss reserve and the use of other credit enhancements, as applicable.

NEW SECTION. **Sec. 206.** A new section is added to chapter 70.164 RCW to read as follows:

PROMOTING THE INVOLVEMENT OF FINANCIAL INSTITUTIONS IN FINANCING ENERGY EFFICIENCY PROJECTS--FINDINGS AND INTENT. (1) The legislature finds that the creation and use of risk reduction mechanisms will promote greater involvement of local financial institutions and other financing mechanisms in funding energy efficiency improvements and will achieve greater leverage of state and federal dollars. Risk reduction mechanisms will allow financial institutions to lend to a broader pool of applicants on more attractive terms, such as potentially lower rates and longer loan terms. Placing a portion of funds in long-term risk reduction mechanisms will support a sustained level of energy efficiency investment by financial institutions while providing funding to projects quickly.

(2) It is the intent of the legislature to leverage new federal funding aimed at promoting energy efficiency projects, improving energy efficiency, and increasing family-wage jobs. To this end, the legislature intends to invest a portion of all federal funding, subject to federal requirements, for energy efficiency projects in financial mechanisms that will provide for maximum leverage of financing.

NEW SECTION. **Sec. 207.** A new section is added to chapter 70.164 RCW to read as follows:

The department may create an appliance efficiency rebate program with available funds from the energy efficient appliances

rebate program authorized under the federal energy policy act of 2005 (P.L. 109-58).

NEW SECTION. **Sec. 208.** A new section is added to chapter 70.164 RCW to read as follows:

PROMOTING THE INVOLVEMENT OF FINANCIAL INSTITUTIONS IN FINANCING ENERGY EFFICIENCY PROJECTS. (1) Local municipalities receiving federal stimulus moneys through the federal energy efficiency and conservation block grant program or state energy program are authorized to use those funds, subject to federal requirements, to establish loan loss reserves or toward risk reduction mechanisms, such as loan loss reserves, to leverage financing for energy efficiency projects.

(2) Interest rate subsidies, financing transaction cost subsidies, capital grants to energy users, and other forms of grants and incentives that support financing energy efficiency projects are authorized uses of federal energy efficiency funding.

(3) Financing mechanisms offered by local municipalities under this section must conform to all applicable state and federal rules and regulations.

NEW SECTION. **Sec. 209.** A new section is added to chapter 70.164 RCW to read as follows:

PROMOTING THE INVOLVEMENT OF STATE-CHARTERED BOND AUTHORITIES IN FINANCING ENERGY EFFICIENCY PROJECTS. (1) The legislature finds that the state bond authorities have capacities that can be applied to financing energy efficiency projects for their respective eligible borrowers: Washington economic development finance authority for industry; Washington state housing finance commission for single-family and multifamily housing, commercial properties, agricultural properties, and nonprofit facilities; Washington higher education facilities authority for private, nonprofit higher education; and Washington health care facilities authority for hospitals and all types of health clinics.

(2)(a) Subject to federal requirements, the state bond authorities may accept and administer an allocation of the state's share of the federal energy efficiency funding for designing energy efficiency finance loan products and for developing and operating energy efficiency finance programs. The state bond authorities shall coordinate with the department on the design of the bond authorities' program.

(b) The department may make allocations of the federal funding to the state bond authorities and may direct and administer funding for outreach, marketing, and delivery of energy services to support the programs by the state bond authorities.

(c) The legislature authorizes a portion of the federal energy efficiency funds to be used by the state bond authorities for credit enhancements and reserves for such programs.

(3) The Washington state housing finance commission may:

(a) Issue revenue bonds as the term "bond" is defined in RCW 43.180.020 for the purpose of financing loans for energy efficiency and renewable energy improvement projects in accordance with RCW 43.180.150;

(b) Establish eligibility criteria for financing that will enable it to choose applicants who are likely to repay loans made or acquired by the commission and funded from the proceeds of federal funds or commission bonds; and

(c) Participate fully in federal and other governmental programs and take such actions as are necessary and consistent with chapter 43.180 RCW to secure to itself and the people of the state the benefits of programs to promote energy efficiency and renewable energy technologies.

PART 3
Energy Efficiency in Publicly Funded Housing

NEW SECTION. **Sec. 301.** A new section is added to chapter 43.185 RCW to read as follows:

ENERGY AUDITS AND RETROFITS IN PUBLICLY FUNDED HOUSING. (1) The legislature finds that growing preservation and rehabilitation needs in the housing trust fund property portfolio provide opportunities to advance energy efficiency and weatherization efforts for low-income individuals in Washington state while protecting the state's six hundred million dollars in affordable housing investments. Preservation of existing affordable housing, when done in conjunction with weatherization activities, is a cost-effective, prudent, and environmentally friendly strategy to ensure that low-income housing remains durable, safe, and affordable. Therefore, the legislature intends that where federal funds are available for increasing and improving energy efficiency of low-income housing that these funds must be utilized, subject to federal requirements, for energy audits and implementing energy efficiency measures in the state housing trust fund real estate portfolio.

(2) The department shall review all housing properties in the housing trust fund real estate portfolio and identify those in need of major renovation or rehabilitation. In its review, the department shall survey property owners for information including, but not limited to, the age of the building and the type of heating, cooling, plumbing, and electrical systems contained in the property. The department shall prioritize all renovation or rehabilitation projects identified in the review by the department's ability to:

(a) Achieve the greatest possible expected monetary and energy savings by low-income households and other energy consumers over the greatest period of time;

(b) Promote the greatest possible health and safety improvements for residents of low-income households; and

(c) Leverage, to the extent feasible, technologically advanced and environmentally friendly sustainable technologies, practices, and designs.

(3) Subject to the availability of amounts appropriated for this specific purpose, the department shall use the prioritization of potential energy efficiency needs and opportunities in subsection (2) of this section to make offers of energy audit services to project owners and operators. The department shall use all practicable means to achieve the completion of energy audits in at least twenty-five percent of the properties in its portfolio that exceed twenty-five years in age, by June 30, 2011. Where the energy audits identify cost- effective weatherization and other energy efficiency measures, the department shall accord a priority within appropriated funding levels to include funding for energy efficiency improvements when the department allocates funding for renovation or rehabilitation of the property.

PART 4
Miscellaneous

NEW SECTION. **Sec. 401.** Sections 101 through 103 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. **Sec. 402.** Captions and part headings used in this act are not any part of the law.

NEW SECTION. **Sec. 403.** A new section is added to chapter 43.06 RCW to read as follows:

The governor shall designate an existing full-time equivalent position within state government as the single point of accountability for all energy and climate change initiatives within state agencies. All agencies, councils, or work groups with energy or climate initiatives must coordinate with the person in this designated position.

NEW SECTION. **Sec. 404.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 405.** 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."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Rockefeller moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5649.

POINT OF ORDER

Senator Schoesler: "Thank you Mr. President, I rise to a point of order that the house amendments to Engrossed Second Substitute Senate Bill No. 5649 are beyond the scope and object of the bill. I will briefly summarize and hand you written documentation but it goes on to amendments dealing with use of workers trained in apprenticeship programs, paying prevailing wages, hiring within communities, scope issues relating to workforce training and others. I will submit written documents immediately."

Senator Rockefeller spoke against the point of order.

MOTION

On motion of Senator Eide, further consideration of Engrossed Second Substitute Senate Bill No. 5649 was deferred and the bill held its place on the concurrence calendar.

MESSAGE FROM THE HOUSE

April 13, 2009

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 5248 with the following amendment: 5248-S AMH ED H2935.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.**

ARTICLE I

PURPOSE

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school districts or variations in entrance and age requirements;

B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment;

C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities;

D. Facilitating the on-time graduation of children of military families;

E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact;

F. Providing for the uniform collection and sharing of information between and among member states, schools, and military families under this compact;

G. Promoting coordination between this compact and other compacts affecting military children; and

H. Promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the student.

ARTICLE II

DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

A. "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. Secs. 1209 and 1211.

B. "Children of military families" means school-aged children, enrolled in kindergarten through twelfth grade, in the household of an active duty member.

C. "Compact commissioner" means the voting representative of each compacting state appointed pursuant to Article VIII of this compact.

D. "Deployment" means the period one month prior to the service members' departure from their home station on military orders through six months after return to their home station.

E. "Education records" or "educational records" means those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to, records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

F. "Extracurricular activities" means a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

G. "Interstate commission on educational opportunity for military children" means the commission that is created under Article IX of this compact, which is generally referred to as the interstate commission.

H. "Local education agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for kindergarten through twelfth grade public educational institutions.

I. "Member state" means a state that has enacted this compact.

J. "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the United States department of defense, including any leased facility, which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other U.S. territory. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

K. "Nonmember state" means a state that has not enacted this compact.

L. "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.

M. "Rule" means a written statement by the interstate commission promulgated pursuant to Article XII of this compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the interstate commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

N. "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.

O. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other U.S. territory.

P. "Student" means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in kindergarten through twelfth grade.

Q. "Transition" means: (1) The formal and physical process of transferring from school to school; or (2) the period of time in which a student moves from one school in the sending state to another school in the receiving state.

R. "Uniformed services" means the army, navy, air force, marine corps, and coast guard, as well as the commissioned corps of

the national oceanic and atmospheric administration, and public health services.

S. "Veteran" means a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

ARTICLE III

APPLICABILITY

A. Except as otherwise provided in section B of this article, this compact shall apply to the children of:

1. Active duty members of the uniformed services as defined in this compact, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. Secs. 1209 and 1211;

2. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and

3. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death.

B. The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

C. The provisions of this compact shall not apply to the children of:

1. Inactive members of the national guard and military reserves;

2. Members of the uniformed services now retired, except as provided in section A of this article;

3. Veterans of the uniformed services, except as provided in section A of this article; and

4. Other U.S. department of defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

ARTICLE IV

EDUCATIONAL RECORDS AND ENROLLMENT

A. Unofficial or "hand-carried" education records – In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the interstate commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

B. Official education records and transcripts - Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within ten days or within such time as is reasonably determined under the rules promulgated by the interstate commission. However, if the student has an unpaid fine at a public school or unpaid tuition, fees, or fines at a private school, then the sending school shall send the information requested but may withhold the official transcript until the monetary obligation is met.

C. Immunizations – On or before the first day of attendance, the parent or guardian must meet the immunization documentation requirements of the Washington board of health. Compacting states shall give thirty days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the interstate commission, for students to obtain any immunizations required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty days or within such time as is reasonably determined under the rules promulgated by the interstate commission.

D. Kindergarten and first grade entrance age – Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level (including kindergarten) from a local education agency in the sending state at the time of transition, regardless of age. A student who has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on his or her validated level from an accredited school in the sending state.

ARTICLE V

PLACEMENT AND ATTENDANCE

A. Course placement - When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered and if space is available, as determined by the school district. Course placement includes but is not limited to honors, international baccalaureate, advanced placement, vocational, technical, and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the courses.

B. Educational program placement – The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation and placement in like programs in the sending state and if space is available, as determined by the school district. Such programs include, but are not limited to: (1) Gifted and talented programs; and (2) English as a second language (ESL). This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

C. Special education services – (1) In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Sec. 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on his or her current Individualized Education Program (IEP); and (2) in compliance with the requirements of section 504 of the rehabilitation act, 29 U.S.C. Sec. 794, and with Title II of the Americans with disabilities act, 42 U.S.C. Secs. 12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

D. Placement flexibility – Local education agency administrative officials shall have flexibility in waiving course and program prerequisites, or other preconditions for placement in courses and programs offered under the jurisdiction of the local education agency.

E. Absence as related to deployment activities – A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by this compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

ARTICLE VI

ELIGIBILITY

A. Eligibility for enrollment

1. Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

2. A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

3. A transitioning military child, placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which he or she was enrolled while residing with the custodial parent.

B. Eligibility for extracurricular participation - Under RCW 28A.225.280, the Washington interscholastic activities association and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified and space is available, as determined by the school district.

ARTICLE VII

GRADUATION

In order to facilitate the on-time graduation of children of military families, states and local education agencies shall incorporate the following procedures:

A. Waiver requirements – Local education agency administrative officials shall waive specific courses required for graduation if similar coursework has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall use best efforts to provide an alternative means of acquiring required coursework so that graduation may occur on time.

B. Exit exams - For students entering high school in eleventh or twelfth grade, states shall accept: (1) Exit or end-of-course exams required for graduation from the sending state; or (2) national norm-referenced achievement tests; or (3) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in his or her senior year, then the provisions of section C of this article shall apply.

C. Transfers during senior year – Should a military student transferring at the beginning or during his or her senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with sections A and B of this article.

ARTICLE VIII

STATE COORDINATION

A. Each member state shall, through the creation of a state council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies, and military installations concerning the state's participation in, and compliance with, this compact and interstate commission activities. While each member state may determine the membership of its own state council, its membership must include at least: The state superintendent of public instruction, a superintendent of a school district with a high concentration of military children, a representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the state council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the state council.

B. The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

C. The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed by the governor or as otherwise determined by each member state. The governor is strongly encouraged to appoint a practicing K- 12 educator as the compact commissioner.

D. The compact commissioner and the military family education liaison designated herein shall be ex officio members of the state council, unless either is already a full voting member of the state council.

ARTICLE IX

INTERSTATE COMMISSION ON EDUCATIONAL

OPPORTUNITY FOR MILITARY CHILDREN

The member states hereby create the "interstate commission on educational opportunity for military children." The activities of the interstate commission are the formation of public policy and are a discretionary state function. The interstate commission shall:

A. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact;

B. Consist of one interstate commission voting representative from each member state who shall be that state's compact commissioner.

1. Each member state represented at a meeting of the interstate commission is entitled to one vote.

2. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission.

3. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the interstate commission, the governor or state council may delegate voting authority to another person from their state for a specified meeting.

4. The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or electronic communication;

C. Consist of ex officio, nonvoting representatives who are members of interested organizations. Such ex officio members, as defined in the bylaws, may include but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. department of defense, the education commission of the states, the interstate agreement on the qualification of educational personnel, and other interstate compacts affecting the education of children of military members;

D. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings;

E. Establish an executive committee, whose members shall include the officers of the interstate commission and such other members of the interstate commission as determined by the bylaws. Members of the executive committee shall serve a one-year term.

Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the interstate commission, with the exception of rule making, during periods when the interstate commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The U.S. department of defense shall serve as an ex officio, nonvoting member of the executive committee;

F. Establish bylaws and rules that provide for conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests;

G. Give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the interstate commission's internal personnel practices and procedures;

2. Disclose matters specifically exempted from disclosure by federal and state statute;

3. Disclose trade secrets or commercial or financial information which is privileged or confidential;

4. Involve accusing a person of a crime, or formally censuring a person;

5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

6. Disclose investigative records compiled for law enforcement purposes; or

7. Specifically relate to the interstate commission's participation in a civil action or other legal proceeding;

H. Cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The interstate commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the interstate commission;

I. Collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. Such methods of data collection, exchange, and reporting shall, in so far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules;

J. Create a process that permits military officials, education officials, and parents to inform the interstate commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section shall not be construed to create a private right of action against the interstate commission or any member state.

ARTICLE X

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission shall have the following powers:

A. To provide for dispute resolution among member states;

B. To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact. The rules shall have the force and effect of statutory law and shall be binding in the compact states to the extent and in the manner provided in this compact;

C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions;

D. To enforce compliance with the compact provisions, the rules promulgated by the interstate commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process;

E. To establish and maintain offices which shall be located within one or more of the member states;

F. To purchase and maintain insurance and bonds;

G. To borrow, accept, hire, or contract for services of personnel;

H. To establish and appoint committees including, but not limited to, an executive committee as required by Article IX, section E of this compact, which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties hereunder;

I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties, and determine their qualifications; and to establish the interstate commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;

J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it;

K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed;

L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

M. To establish a budget and make expenditures;

N. To adopt a seal and bylaws governing the management and operation of the interstate commission;

O. To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission;

P. To coordinate education, training, and public awareness regarding the compact, its implementation, and operation for officials and parents involved in such activity;

Q. To establish uniform standards for the reporting, collecting, and exchanging of data;

R. To maintain corporate books and records in accordance with the bylaws;

S. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact; and

T. To provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

ARTICLE XI

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. The interstate commission shall, by a majority of the members present and voting, within twelve months after the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

1. Establishing the fiscal year of the interstate commission;

2. Establishing an executive committee, and such other committees as may be necessary;

3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the interstate commission;

4. Providing reasonable procedures for calling and conducting meetings of the interstate commission, and ensuring reasonable notice of each such meeting;

5. Establishing the titles and responsibilities of the officers and staff of the interstate commission;

6. Providing a mechanism for concluding the operations of the interstate commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations; and

7. Providing "start up" rules for initial administration of the compact.

B. The interstate commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the interstate commission. The officers so elected shall serve without compensation or remuneration from the interstate commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the interstate commission.

C. Executive committee, officers, and personnel

1. The executive committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to:

a. Managing the affairs of the interstate commission in a manner consistent with the bylaws and purposes of the interstate commission;

b. Overseeing an organizational structure within, and appropriate procedures for the interstate commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and

c. Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the interstate commission.

2. The executive committee may, subject to the approval of the interstate commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the interstate commission may deem appropriate. The executive director shall serve as secretary to the interstate commission, but shall not be a member of the interstate commission. The executive director shall hire and supervise such other persons as may be authorized by the interstate commission.

D. The interstate commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of interstate commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

1. The liability of the interstate commission's executive director and employees or interstate commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

2. The interstate commission shall defend the executive director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an interstate commission representative, shall defend such interstate commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

3. To the extent not covered by the state involved, member state, or the interstate commission, the representatives or employees of the interstate commission shall be held harmless in the amount of a settlement or judgment, including attorneys' fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XII

RULE-MAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. Rule-making authority - The interstate commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the interstate commission exercises its rule-making authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted hereunder, then such an action by the interstate commission shall be invalid and have no force or effect.

B. Rule-making procedure - Rules shall be made pursuant to a rule- making process that substantially conforms to the "model state administrative procedure act," of 1981, Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate to the operations of the interstate commission.

C. Not later than thirty days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the interstate commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the interstate commission's authority.

D. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

ARTICLE XIII

OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

A. Oversight

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state

pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the interstate commission.

3. The interstate commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the interstate commission shall render a judgment or order void as to the interstate commission, this compact, or promulgated rules.

B. Default, technical assistance, suspension, and termination - If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the interstate commission shall:

1. Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the interstate commission. The interstate commission shall specify the conditions by which the defaulting state must cure its default;

2. Provide remedial training and specific technical assistance regarding the default;

3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default;

4. Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the interstate commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states;

5. The state which has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination including obligations the performance of which extends beyond the effective date of suspension or termination;

6. The interstate commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state;

7. The defaulting state may appeal the action of the interstate commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the interstate commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorneys' fees.

C. Dispute Resolution

1. The interstate commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and nonmember states.

2. The interstate commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement

1. The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. The interstate commission, may by majority vote of the members, initiate legal action in the United State District Court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal offices, to enforce compliance with the provisions of the compact, and its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorneys' fees.

3. The remedies herein shall not be the exclusive remedies of the interstate commission. The interstate commission may avail itself of any other remedies available under state law or the regulation of a profession.

ARTICLE XIV

FINANCING OF THE INTERSTATE COMMISSION

A. The interstate commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

B. The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff which must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

C. The interstate commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the interstate commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the interstate commission.

ARTICLE XV

MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than ten of the states. The effective date shall be no earlier than December 1, 2007.

Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the interstate commission on a nonvoting basis prior to adoption of the compact by all states.

C. The interstate commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the interstate commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XVI

WITHDRAWAL AND DISSOLUTION

A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact by specifically repealing the statute, which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until one year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member jurisdiction.

3. The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

B. Dissolution of compact

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVII

SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

ARTICLE XVIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other laws

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

2. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

B. Binding effect of the compact

1. All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the member states.

2. All agreements between the interstate commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

Sec. 2. RCW 28A.225.330 and 2006 c 263 s 805 are each amended to read as follows:

(1) When enrolling a student who has attended school in another school district, the school enrolling the student may request the parent and the student to briefly indicate in writing whether or not the student has:

(a) Any history of placement in special educational programs;

(b) Any past, current, or pending disciplinary action;

(c) Any history of violent behavior, or behavior listed in RCW 13.04.155;

(d) Any unpaid fines or fees imposed by other schools; and

(e) Any health conditions affecting the student's educational needs.

(2) The school enrolling the student shall request the school the student previously attended to send the student's permanent record including records of disciplinary action, history of violent behavior or behavior listed in RCW 13.04.155, attendance, immunization records, and academic performance. If the student has not paid a fine or fee under RCW 28A.635.060, or tuition, fees, or fines at approved private schools the school may withhold the student's official transcript, but shall transmit information about the student's academic performance, special placement, immunization records, records of disciplinary action, and history of violent behavior or behavior listed in RCW 13.04.155. If the official transcript is not sent due to unpaid tuition, fees, or fines, the enrolling school shall notify both the student and parent or guardian that the official transcript will not be sent until the obligation is met, and failure to have an official transcript may result in exclusion from extracurricular activities or failure to graduate.

(3) Upon request, school districts shall furnish a set of unofficial educational records to a parent or guardian of a student who is transferring out of state and who meets the definition of a child of a military family in transition under section 1, Article II of this act. School districts may charge the parent or guardian the actual cost of providing the copies of the records.

(4) If information is requested under subsection (2) of this section, the information shall be transmitted within two school days after receiving the request and the records shall be sent as soon as possible. The records of a student who meets the definition of a child of a military family in transition under section 1, Article II of this act shall be sent within ten days after receiving the request. Any school district or district employee who releases the information in compliance with this section is immune from civil liability for damages unless it is shown that the school district employee acted with gross negligence or in bad faith. The professional educator standards board shall provide by rule for the discipline under chapter 28A.410 RCW of a school principal or other chief administrator of a public school building who fails to make a good faith effort to assure compliance with this subsection.

((~~(4)~~)) (5) Any school district or district employee who releases the information in compliance with federal and state law is immune from civil liability for damages unless it is shown that the school district or district employee acted with gross negligence or in bad faith.

((~~(5)~~)) (6) When a school receives information under this section or RCW 13.40.215 that a student has a history of disciplinary actions, criminal or violent behavior, or other behavior that indicates the student could be a threat to the safety of educational staff or other students, the school shall provide this information to the student's teachers and security personnel.

Sec. 3. RCW 28A.225.160 and 2006 c 263 s 703 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section and otherwise provided by law, it is the general policy of the state that the common schools shall be open to the admission of all persons who are five years of age and less than twenty-one years residing in that school district. Except as otherwise provided by law or rules adopted by the superintendent of public instruction, districts may establish uniform entry qualifications, including but not limited to birth date requirements, for admission to kindergarten and first grade programs of the common schools. Such rules may provide for exceptions based upon the ability, or the need, or both, of an individual student. For the purpose of complying with any rule adopted by the superintendent of public instruction that authorizes a preadmission screening process as a prerequisite to granting exceptions to the uniform entry qualifications, a school district may collect fees to cover expenses incurred in the administration of any preadmission screening process: PROVIDED, That in so establishing such fee or fees, the district shall adopt ((~~regulations~~)) rules for waiving and reducing such fees in the cases of those persons whose families, by reason of their low income, would have difficulty in paying the entire amount of such fees.

(2) A student who meets the definition of a child of a military family in transition under section 1, Article II of this act shall be permitted to continue enrollment at the grade level in the common schools commensurate with the grade level of the student when attending school in the sending state as defined in section 1, Article II of this act, regardless of age or birthdate requirements.

Sec. 4. RCW 28A.185.030 and 1984 c 278 s 13 are each amended to read as follows:

Local school districts may establish and operate, either separately or jointly, programs for highly capable students. Such authority shall include the right to employ and pay special

instructors and to operate such programs jointly with a public institution of higher education. Local school districts which establish and operate programs for highly capable students shall adopt identification procedures and provide educational opportunities as follows:

(1) In accordance with rules ((~~and regulations~~)) adopted by the superintendent of public instruction, school districts shall implement procedures for nomination, assessment and selection of their most highly capable students. Nominations shall be based upon data from teachers, other staff, parents, students, and members of the community. Assessment shall be based upon a review of each student's capability as shown by multiple criteria intended to reveal, from a wide variety of sources and data, each student's unique needs and capabilities. Selection shall be made by a broadly based committee of professionals, after consideration of the results of the multiple criteria assessment.

(2) When a student, who is a child of a military family in transition, has been assessed or enrolled as highly capable by a sending school, the receiving school shall initially honor placement of the student into a like program.

(a) The receiving school shall determine whether the district's program is a like program when compared to the sending school's program; and

(b) The receiving school may conduct subsequent assessments to determine appropriate placement and continued enrollment in the program.

(3) Students selected pursuant to procedures outlined in this section shall be provided, to the extent feasible, an educational opportunity which takes into account each student's unique needs and capabilities and the limits of the resources and program options available to the district, including those options which can be developed or provided by using funds allocated by the superintendent of public instruction for that purpose.

(4) The definitions in section 1, Article II of this act apply to subsection (2) of this section.

Sec. 5. RCW 28A.180.040 and 2001 1st sp.s. c 6 s 4 are each amended to read as follows:

(1) Every school district board of directors shall:

((~~(1)~~)) (a) Make available to each eligible pupil transitional bilingual instruction to achieve competency in English, in accord with rules of the superintendent of public instruction((~~:~~));

((~~(2)~~)) (b) Wherever feasible, ensure that communications to parents emanating from the schools shall be appropriately bilingual for those parents of pupils in the bilingual instruction program((~~:~~));

((~~(3)~~)) (c) Determine, by administration of an English test approved by the superintendent of public instruction the number of eligible pupils enrolled in the school district at the beginning of a school year and thereafter during the year as necessary in individual cases((~~:~~));

((~~(4)~~)) (d) Ensure that a student who is a child of a military family in transition and who has been assessed as in need of, or enrolled in, a bilingual instruction program, the receiving school shall initially honor placement of the student into a like program.

(i) The receiving school shall determine whether the district's program is a like program when compared to the sending school's program; and

(ii) The receiving school may conduct subsequent assessments pursuant to RCW 28A.180.090 to determine appropriate placement and continued enrollment in the program;

(e) Before the conclusion of each school year, measure each eligible pupil's improvement in learning the English language by means of a test approved by the superintendent of public instruction((~~:~~)); and

((~~(5)~~)) (f) Provide in-service training for teachers, counselors, and other staff, who are involved in the district's transitional bilingual program. Such training shall include appropriate instructional strategies for children of culturally different backgrounds, use of curriculum materials, and program models.

(2) The definitions in section 1, Article II of this act apply to subsection (1)(d) of this section.

Sec. 6. RCW 28A.225.210 and 1990 c 33 s 235 are each amended to read as follows:

Every school district shall admit on a tuition free basis: (1) All persons of school age who reside within this state, and do not reside within another school district carrying the grades for which they are eligible to enroll: PROVIDED, That nothing in this ((~~section~~)) subsection shall be construed as affecting RCW 28A.225.220 or 28A.225.250; and (2) all students who meet the definition of children of military families in transition under section 1, Article II of this act who are in the care of a noncustodial parent or other person standing in loco parentis and who lives in another state while the parent is under military orders.

Sec. 7. RCW 28A.225.225 and 2008 c 192 s 1 are each amended to read as follows:

(1) Except for students who reside out-of-state and students under section 8 of this act, a district shall accept applications from nonresident students who are the children of full-time certificated and classified school employees, and those children shall be permitted to enroll:

(a) At the school to which the employee is assigned;

(b) At a school forming the district's K through 12 continuum which includes the school to which the employee is assigned; or

(c) At a school in the district that provides early intervention services pursuant to RCW 28A.155.065 or preschool services pursuant to RCW 28A.155.070, if the student is eligible for such services.

(2) A district may reject applications under this section if:

(a) The student's disciplinary records indicate a history of convictions for offenses or crimes, violent or disruptive behavior, or gang membership;

(b) The student has been expelled or suspended from a public school for more than ten consecutive days. Any policy allowing for readmission of expelled or suspended students under this subsection (2)(b) must apply uniformly to both resident and nonresident applicants; or

(c) Enrollment of a child under this section would displace a child who is a resident of the district, except that if a child is admitted under subsection (1) of this section, that child shall be permitted to remain enrolled at that school, or in that district's kindergarten through twelfth grade continuum, until he or she has completed his or her schooling.

(3) Except as provided in subsection (1) of this section, all districts accepting applications from nonresident students or from students receiving home-based instruction for admission to the district's schools shall consider equally all applications received. Each school district shall adopt a policy establishing rational, fair, and equitable standards for acceptance and rejection of applications by June 30, 1990. The policy may include rejection of a nonresident student if:

(a) Acceptance of a nonresident student would result in the district experiencing a financial hardship;

(b) The student's disciplinary records indicate a history of convictions for offenses or crimes, violent or disruptive behavior, or gang membership; or

(c) The student has been expelled or suspended from a public school for more than ten consecutive days. Any policy allowing for readmission of expelled or suspended students under this subsection (3)(c) must apply uniformly to both resident and nonresident applicants.

For purposes of subsections (2)(a) and (3)(b) of this section, "gang" means a group which: (i) Consists of three or more persons; (ii) has identifiable leadership; and (iii) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

(4) The district shall provide to applicants written notification of the approval or denial of the application in a timely manner. If the application is rejected, the notification shall include the reason or reasons for denial and the right to appeal under RCW 28A.225.230(3).

NEW SECTION. **Sec. 8.** A new section is added to chapter 28A.225 RCW to read as follows:

(1) A student shall be permitted to remain enrolled in the school in which the student was enrolled while residing with the custodial parent if the student:

(a) Meets the definition of a child of a military family in transition under section 1, Article II of this act; and

(b) Is placed in the care of a noncustodial parent or guardian when the custodial parent is required to relocate due to military orders.

(2) A nonresident school district shall not be required to provide transportation to and from the school unless otherwise required by state or federal law.

NEW SECTION. **Sec. 9.** By December 1, 2014, the state council, created in accordance with section 1 of this act, shall conduct a review of the implementation of the interstate compact on educational opportunity for military children and recommend to the state legislature whether Washington should continue to be a member of the compact and whether any other actions should be taken.

NEW SECTION. **Sec. 10.** Sections 1 and 9 of this act constitute a new chapter in Title 28A RCW."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hobbs moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5248.

Senator Hobbs spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hobbs that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5248.

The motion by Senator Hobbs carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5248 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5248, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5248, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 1; Absent, 1; Excused, 4.

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

Voting nay: Senator Oemig

Absent: Senator Pridemore

Excused: Senators Brandland, Fraser, Prentice and Regala

SUBSTITUTE SENATE BILL NO. 5248, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Marr, Senators Haugen, Jacobsen and Pridemore were excused.

MESSAGE FROM THE HOUSE

April 9, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5834 with the following amendment: 5834-S AMH CONW H3022.2

On page 1, after line 5, insert the following:

"**Sec. 1.** RCW 66.04.010 and 2008 c 94 s 4 are each amended to read as follows:

In this title, unless the context otherwise requires:

(1) "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance. The term "alcohol" does not include alcohol in the possession of a manufacturer or distiller of alcohol fuel, as described in RCW 66.12.130, which is intended to be denatured and used as a fuel for use in motor vehicles, farm implements, and machines or implements of husbandry.

(2) "Authorized representative" means a person who:

(a) Is required to have a federal basic permit issued pursuant to the federal alcohol administration act, 27 U.S.C. Sec. 204;

(b) Has its business located in the United States outside of the state of Washington;

(c) Acquires ownership of beer or wine for transportation into and resale in the state of Washington; and which beer or wine is produced ((~~anywhere~~)) by a brewery or winery in the United States outside of the state of Washington ((~~by a brewery or winery which does not hold a certificate of approval issued by the board~~)); and

(d) Is appointed by the brewery or winery referenced in (c) of this subsection as its ((~~exclusive~~)) authorized representative for marketing and selling its products within the United States in accordance with a written agreement between the authorized representative and such brewery or winery pursuant to this title. ((~~The board may waive the requirement for the written agreement of exclusivity in situations consistent with the normal marketing practices of certain products, such as classified growths.~~))

(3) "Beer" means any malt beverage, flavored malt beverage, or malt liquor as these terms are defined in this chapter.

(4) "Beer distributor" means a person who buys beer from a domestic brewery, microbrewery, beer certificate of approval holder, or beer importers, or who acquires foreign produced beer from a source outside of the United States, for the purpose of selling the same pursuant to this title, or who represents such brewer or brewery as agent.

(5) "Beer importer" means a person or business within Washington who purchases beer from a beer certificate of approval holder or who acquires foreign produced beer from a source outside of the United States for the purpose of selling the same pursuant to this title.

(6) "Brewer" or "brewery" means any person engaged in the business of manufacturing beer and malt liquor. Brewer includes a brand owner of malt beverages who holds a brewer's notice with the federal bureau of alcohol, tobacco, and firearms at a location outside the state and whose malt beverage is contract-produced by a licensed in-state brewery, and who may exercise within the state, under a domestic brewery license, only the privileges of storing, selling to licensed beer distributors, and exporting beer from the state.

(7) "Board" means the liquor control board, constituted under this title.

(8) "Club" means an organization of persons, incorporated or unincorporated, operated solely for fraternal, benevolent, educational, athletic or social purposes, and not for pecuniary gain.

(9) "Confection" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, dairy products, or flavorings, in the form of bars, drops, or pieces.

(10) "Consume" includes the putting of liquor to any use, whether by drinking or otherwise.

(11) "Contract liquor store" means a business that sells liquor on behalf of the board through a contract with a contract liquor store manager.

(12) "Craft distillery" means a distillery that pays the reduced licensing fee under RCW 66.24.140.

(13) "Dentist" means a practitioner of dentistry duly and regularly licensed and engaged in the practice of his profession within the state pursuant to chapter 18.32 RCW.

(14) "Distiller" means a person engaged in the business of distilling spirits.

(15) "Domestic brewery" means a place where beer and malt liquor are manufactured or produced by a brewer within the state.

(16) "Domestic winery" means a place where wines are manufactured or produced within the state of Washington.

(17) "Druggist" means any person who holds a valid certificate and is a registered pharmacist and is duly and regularly engaged in carrying on the business of pharmaceutical chemistry pursuant to chapter 18.64 RCW.

(18) "Drug store" means a place whose principal business is, the sale of drugs, medicines and pharmaceutical preparations and maintains a regular prescription department and employs a registered pharmacist during all hours the drug store is open.

(19) "Employee" means any person employed by the board.

(20) "Flavored malt beverage" means:

(a) A malt beverage containing six percent or less alcohol by volume to which flavoring or other added nonbeverage ingredients are added that contain distilled spirits of not more than forty-nine percent of the beverage's overall alcohol content; or

(b) A malt beverage containing more than six percent alcohol by volume to which flavoring or other added nonbeverage ingredients are added that contain distilled spirits of not more than one and one-half percent of the beverage's overall alcohol content.

(21) "Fund" means 'liquor revolving fund.'

(22) "Hotel" means buildings, structures, and grounds, having facilities for preparing, cooking, and serving food, that are kept, used, maintained, advertised, or held out to the public to be a place where food is served and sleeping accommodations are offered for pay to transient guests, in which twenty or more rooms are used for the sleeping accommodation of such transient guests. The buildings, structures, and grounds must be located on adjacent property either owned or leased by the same person or persons.

(23) "Importer" means a person who buys distilled spirits from a distillery outside the state of Washington and imports such spirituous liquor into the state for sale to the board or for export.

(24) "Imprisonment" means confinement in the county jail.

(25) "Liquor" includes the four varieties of liquor herein defined (alcohol, spirits, wine and beer), and all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating; and every liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid, solid, or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating. Liquor does not include confections or food products that contain one percent or less of alcohol by weight.

(26) "Manufacturer" means a person engaged in the preparation of liquor for sale, in any form whatsoever.

(27) "Malt beverage" or "malt liquor" means any beverage such as beer, ale, lager beer, stout, and porter obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water containing not more than eight percent of alcohol by weight, and not less than one-half of one percent of alcohol by volume. For the purposes of this title, any such beverage containing more than eight percent of alcohol by weight shall be referred to as "strong beer."

(28) "Package" means any container or receptacle used for holding liquor.

(29) "Passenger vessel" means any boat, ship, vessel, barge, or other floating craft of any kind carrying passengers for compensation.

(30) "Permit" means a permit for the purchase of liquor under this title.

(31) "Person" means an individual, copartnership, association, or corporation.

(32) "Physician" means a medical practitioner duly and regularly licensed and engaged in the practice of his profession within the state pursuant to chapter 18.71 RCW.

(33) "Prescription" means a memorandum signed by a physician and given by him to a patient for the obtaining of liquor pursuant to this title for medicinal purposes.

(34) "Public place" includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; those parts of establishments where beer may be sold under this title, soft drink establishments, public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, and other public conveyances of all kinds and character, and the depots and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, and/or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

(35) "Regulations" means regulations made by the board under the powers conferred by this title.

(36) "Restaurant" means any establishment provided with special space and accommodations where, in consideration of payment, food, without lodgings, is habitually furnished to the public, not including drug stores and soda fountains.

(37) "Sale" and "sell" include exchange, barter, and traffic; and also include the selling or supplying or distributing, by any means whatsoever, of liquor, or of any liquid known or described as beer or by any name whatever commonly used to describe malt or brewed liquor or of wine, by any person to any person; and also include a sale or selling within the state to a foreign consignee or his agent in the state. "Sale" and "sell" shall not include the giving, at no charge, of a reasonable amount of liquor by a person not licensed by the board to a person not licensed by the board, for personal use only. "Sale" and "sell" also does not include a raffle authorized under RCW 9.46.0315: PROVIDED, That the nonprofit organization conducting the raffle has obtained the appropriate permit from the board.

(38) "Soda fountain" means a place especially equipped with apparatus for the purpose of dispensing soft drinks, whether mixed or otherwise.

(39) "Spirits" means any beverage which contains alcohol obtained by distillation, except flavored malt beverages, but including wines exceeding twenty-four percent of alcohol by volume.

(40) "Store" means a state liquor store established under this title.

(41) "Tavern" means any establishment with special space and accommodation for sale by the glass and for consumption on the premises, of beer, as herein defined.

(42) "Winery" means a business conducted by any person for the manufacture of wine for sale, other than a domestic winery.

(43)(a) "Wine" means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, et cetera) or other agricultural product containing sugar, to which any saccharine substances may have been added before, during or after fermentation, and containing not more than twenty-four percent of alcohol by volume, including sweet wines fortified with wine spirits, such as port, sherry, muscatel and angelica, not exceeding twenty-four percent of alcohol by volume and not less than one-half of one percent of alcohol by volume. For purposes of this title, any beverage containing no more than fourteen percent of alcohol by

volume when bottled or packaged by the manufacturer shall be referred to as "table wine," and any beverage containing alcohol in an amount more than fourteen percent by volume when bottled or packaged by the manufacturer shall be referred to as "fortified wine." However, "fortified wine" shall not include: (i) Wines that are both sealed or capped by cork closure and aged two years or more; and (ii) wines that contain more than fourteen percent alcohol by volume solely as a result of the natural fermentation process and that have not been produced with the addition of wine spirits, brandy, or alcohol.

(b) This subsection shall not be interpreted to require that any wine be labeled with the designation "table wine" or "fortified wine."

(44) "Wine distributor" means a person who buys wine from a domestic winery, wine certificate of approval holder, or wine importer, or who acquires foreign produced wine from a source outside of the United States, for the purpose of selling the same not in violation of this title, or who represents such vintner or winery as agent.

(45) "Wine importer" means a person or business within Washington who purchases wine from a wine certificate of approval holder or who acquires foreign produced wine from a source outside of the United States for the purpose of selling the same pursuant to this title."

Renumber the remaining sections consecutively and correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5834.

Senator Kohl-Welles spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5834.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5834 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5834, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5834, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 40; Nays, 2; Absent, 0; Excused, 7.

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

Voting nay: Senators Hargrove and Swecker

Excused: Senators Brandland, Fraser, Haugen, Jacobsen, Prentice, Pridemore and Regala

SUBSTITUTE SENATE BILL NO. 5834, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 14, 2009

MR. PRESIDENT:

The House has passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5854 with the following amendment: 5854-S2.E AMH ROLF H3294.2

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that energy efficiency is the cheapest, quickest, and cleanest way to meet rising energy needs, confront climate change, and boost our economy. More than thirty percent of Washington's greenhouse gas emissions come from energy use in buildings. Making homes, businesses, and public institutions more energy efficient will save money, create good local jobs, enhance energy security, reduce pollution that causes global warming, and speed economic recovery while reducing the need to invest in costly new generation. Washington can spur its economy and assert its regional and national clean energy leadership by putting efficiency first. Washington can accomplish this by: Promoting super efficient, low-energy use building codes; requiring disclosure of buildings' energy use to prospective buyers; making public buildings models of energy efficiency; financing energy saving upgrades to existing buildings; and reducing utility bills for low-income households.

NEW SECTION. **Sec. 2.** The definitions in this section apply to sections 1 through 3 and 5 through 8 of this act and RCW 19.27A.020 unless the context clearly requires otherwise.

(1) "Benchmark" means the energy used by a facility as recorded monthly for at least one year and the facility characteristics information inputs required for a portfolio manager.

(2) "Conditioned space" means conditioned space, as defined in the Washington state energy code.

(3) "Consumer-owned utility" includes a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, a port district formed under Title 53 RCW, or a water-sewer district formed under Title 57 RCW, that is engaged in the business of distributing electricity to one or more retail electric customers in the state.

(4) "Cost-effectiveness" means that a project or resource is forecast:

(a) To be reliable and available within the time it is needed; and

(b) To meet or reduce the power demand of the intended consumers at an estimated incremental system cost no greater than that of the least- cost similarly reliable and available alternative project or resource, or any combination thereof.

(5) "Council" means the state building code council.

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

(7) "Embodied energy" means the total amount of fossil fuel energy consumed to extract raw materials and to manufacture, assemble, transport, and install the materials in a building and the life-cycle cost benefits including the recyclability and energy efficiencies with respect to building materials, taking into account the total sum of current values for the costs of investment, capital, installation, operating, maintenance, and replacement as estimated for the lifetime of the product or project.

(8) "Energy consumption data" means the monthly amount of energy consumed by a customer as recorded by the applicable energy meter for the most recent twelve-month period.

(9) "Energy service company" has the same meaning as in RCW 43.19.670.

(10) "General administration" means the department of general administration.

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

(12) "Investment grade energy audit" means an intensive engineering analysis of energy efficiency and management measures

for the facility, net energy savings, and a cost-effectiveness determination.

(13) "Investor-owned utility" means a corporation owned by investors that meets the definition of "corporation" as defined in RCW 80.04.010 and is engaged in distributing either electricity or natural gas, or both, to more than one retail electric customer in the state.

(14) "Major facility" means any publicly owned or leased building, or a group of such buildings at a single site, having ten thousand square feet or more of conditioned floor space.

(15) "National energy performance rating" means the score provided by the energy star program, to indicate the energy efficiency performance of the building compared to similar buildings in that climate as defined in the United States environmental protection agency "ENERGY STAR® Performance Ratings Technical Methodology."

(16) "Net zero energy use" means a building with net energy consumption of zero over a typical year.

(17) "Portfolio manager" means the United States environmental protection agency's energy star portfolio manager or an equivalent tool adopted by the department.

(18) "Preliminary energy audit" means a quick evaluation by an energy service company of the energy savings potential of a building.

(19) "Qualifying public agency" includes all state agencies, colleges, and universities.

(20) "Qualifying utility" means a consumer-owned or investor-owned gas or electric utility that serves more than twenty-five thousand customers in the state of Washington.

(21) "Reporting public facility" means any of the following:

(a) A building or structure, or a group of buildings or structures at a single site, owned by a qualifying public agency, that exceed ten thousand square feet of conditioned space;

(b) Buildings, structures, or spaces leased by a qualifying public agency that exceeds ten thousand square feet of conditioned space, where the qualifying public agency purchases energy directly from the investor-owned or consumer-owned utility;

(c) A wastewater treatment facility owned by a qualifying public agency; or

(d) Other facilities selected by the qualifying public agency.

(22) "State portfolio manager master account" means a portfolio manager account established to provide a single shared portfolio that includes reports for all the reporting public facilities.

NEW SECTION. **Sec. 3.** (1) To the extent that funding is appropriated specifically for the purposes of this section, the department shall develop and implement a strategic plan for enhancing energy efficiency in and reducing greenhouse gas emissions from homes, buildings, districts, and neighborhoods. The strategic plan must be used to help direct the future code increases in RCW 19.27A.020, with targets for new buildings consistent with section 5 of this act. The strategic plan will identify barriers to achieving net zero energy use in homes and buildings and identify how to overcome these barriers in future energy code updates and through complementary policies.

(2) The department must complete and release the strategic plan to the legislature and the council by December 31, 2010, and update the plan every three years.

(3) The strategic plan must include recommendations to the council on energy code upgrades. At a minimum, the strategic plan must:

(a) Consider development of aspirational codes separate from the state energy code that contain economically and technically feasible optional standards that could achieve higher energy efficiency for those builders that elected to follow the aspirational codes in lieu of or in addition to complying with the standards set forth in the state energy code;

(b) Determine the appropriate methodology to measure achievement of state energy code targets using the United States environmental protection agency's target finder program or equivalent methodology;

(c) Address the need for enhanced code training and enforcement;

(d) Include state strategies to support research, demonstration, and education programs designed to achieve a seventy percent reduction in annual net energy consumption as specified in section 5 of this act and enhance energy efficiency and on-site renewable energy production in buildings;

(e) Recommend incentives, education, training programs and certifications, particularly state-approved training or certification programs, joint apprenticeship programs, or labor-management partnership programs that train workers for energy-efficiency projects to ensure proposed programs are designed to increase building professionals' ability to design, construct, and operate buildings that will meet the seventy percent reduction in annual net energy consumption as specified in section 5 of this act;

(f) Address barriers for utilities to serve net zero energy homes and buildings and policies to overcome those barriers;

(g) Address the limits of a prescriptive code in achieving net zero energy use homes and buildings and propose a transition to performance- based codes;

(h) Identify financial mechanisms such as tax incentives, rebates, and innovative financing to motivate energy consumers to take action to increase energy efficiency and their use of on-site renewable energy. Such incentives, rebates, or financing options may consider the role of government programs as well as utility-sponsored programs;

(i) Address the adequacy of education and technical assistance, including school curricula, technical training, and peer-to-peer exchanges for professional and trade audiences;

(j) Develop strategies to develop and install district and neighborhood-wide energy systems that help meet net zero energy use in homes and buildings;

(k) Identify costs and benefits of energy efficiency measures on residential and nonresidential construction; and

(l) Investigate methodologies and standards for the measurement of the amount of embodied energy used in building materials.

(4) The department and the council shall convene a work group with the affected parties to inform the initial development of the strategic plan.

Sec. 4. RCW 19.27A.020 and 1998 c 245 s 8 are each amended to read as follows:

(1) ((~~No later than January 1, 1991,~~)) The state building code council shall adopt rules to be known as the Washington state energy code as part of the state building code.

(2) The council shall follow the legislature's standards set forth in this section to adopt rules to be known as the Washington state energy code. The Washington state energy code shall be designed to:

(a) Construct increasingly energy efficient homes and buildings that help achieve the broader goal of building zero fossil-fuel greenhouse gas emission homes and buildings by the year 2031;

(b) Require new buildings to meet a certain level of energy efficiency, but allow flexibility in building design, construction, and heating equipment efficiencies within that framework((~~. The Washington state energy code shall be designed to~~)); and

(c) Allow space heating equipment efficiency to offset or substitute for building envelope thermal performance.

(3) The Washington state energy code shall take into account regional climatic conditions. Climate zone 1 shall include all counties not included in climate zone 2. Climate zone 2 includes: Adams, Chelan, Douglas, Ferry, Grant, Kittitas, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, and Whitman counties.

(4) The Washington state energy code for residential buildings shall ((~~require:~~

~~(a) New residential buildings that are space heated with electric resistance heating systems to achieve energy use equivalent to that used in typical buildings constructed with:~~

~~(i) Ceilings insulated to a level of R-38. The code shall contain an exception which permits single rafter or joist vaulted ceilings insulated to a level of R-30 ® value includes insulation only);~~

~~(ii) In zone 1, walls insulated to a level of R-19 ® value includes insulation only), or constructed with two by four members, R-13 insulation batts, R-3.2 insulated sheathing, and other normal assembly components; in zone 2 walls insulated to a level of R-24 ® value includes insulation only), or constructed with two by six members, R-22 insulation batts, R-3.2 insulated sheathing, and other normal construction assembly components; for the purpose of determining equivalent thermal performance, the wall U-value shall be 0.058 in zone 1 and 0.044 in zone 2;~~

~~(iii) Below grade walls, insulated on the interior side, to a level of R-19 or, if insulated on the exterior side, to a level of R-10 in zone 1 and R-12 in zone 2 ® value includes insulation only);~~

~~(iv) Floors over unheated spaces insulated to a level of R-30 ® value includes insulation only);~~

~~(v) Slab on grade floors insulated to a level of R-10 at the perimeter;~~

~~(vi) Double glazed windows with values not more than U-0.4;~~

~~(vii) In zone 1 the glazing area may be up to twenty-one percent of floor area and in zone 2 the glazing area may be up to seventeen percent of floor area where consideration of the thermal resistance values for other building components and solar heat gains through the glazing result in thermal performance equivalent to that achieved with thermal resistance values for other components determined in accordance with the equivalent thermal performance criteria of (a) of this subsection and glazing area equal to fifteen percent of the floor area. Throughout the state for the purposes of determining equivalent thermal performance, the maximum glazing area shall be fifteen percent of the floor area; and~~

~~(viii) Exterior doors insulated to a level of R-5; or an exterior wood door with a thermal resistance value of less than R-5 and values for other components determined in accordance with the equivalent thermal performance criteria of (a) of this subsection.~~

~~(b) New residential buildings which are space-heated with all other forms of space heating to achieve energy use equivalent to that used in typical buildings constructed with:~~

~~(i) Ceilings insulated to a level of R-30 in zone 1 and R-38 in zone 2 the code shall contain an exception which permits single rafter or joist vaulted ceilings insulated to a level of R-30 ® value includes insulation only);~~

~~(ii) Walls insulated to a level of R-19 ® value includes insulation only), or constructed with two by four members, R-13 insulation batts, R-3.2 insulated sheathing, and other normal assembly components;~~

~~(iii) Below grade walls, insulated on the interior side, to a level of R-19 or, if insulated on the exterior side, to a level of R-10 in zone 1 and R-12 in zone 2 ® value includes insulation only);~~

~~(iv) Floors over unheated spaces insulated to a level of R-19 in zone 1 and R-30 in zone 2 ® value includes insulation only);~~

~~(v) Slab on grade floors insulated to a level of R-10 at the perimeter;~~

~~(vi) Heat pumps with a minimum heating season performance factor (HSPF) of 6.8 or with all other energy sources with a minimum annual fuel utilization efficiency (AFUE) of seventy-eight percent;~~

~~(vii) Double glazed windows with values not more than U-0.65 in zone 1 and U-0.60 in zone 2. The state building code council, in consultation with the department of community, trade, and economic development, shall review these U-values, and, if economically justified for consumers, shall amend the Washington state energy code to improve the U-values by December 1, 1993. The amendment shall not take effect until July 1, 1994; and~~

~~(viii) In zone 1, the maximum glazing area shall be twenty-one percent of the floor area. In zone 2 the maximum glazing area shall be seventeen percent of the floor area. Throughout the state for the purposes of determining equivalent thermal performance, the maximum glazing area shall be fifteen percent of the floor area.~~

~~(c) The requirements of (b)(ii) of this subsection do not apply to residences with log or solid timber walls with a minimum average thickness of three and one-half inches and with space heat other than electric resistance.~~

~~(d) The state building code council may approve an energy code for pilot projects of residential construction that use innovative energy efficiency technologies intended to result in savings that are greater than those realized in the levels specified in this section.~~

~~(5) U-values for glazing shall be determined using the area weighted average of all glazing in the building. U-values for vertical glazing shall be determined, certified, and labeled in accordance with the appropriate national fenestration rating council (NFRC) standard, as determined and adopted by the state building code council. Certification of U-values shall be conducted by a certified, independent agency licensed by the NFRC. The state building code council may develop and adopt alternative methods of determining, certifying, and labeling U-values for vertical glazing that may be used by fenestration manufacturers if determined to be appropriate by the council. The state building code council shall review and consider the adoption of the NFRC standards for determining, certifying, and labeling U-values for doors and skylights when developed and published by the NFRC. The state building code council may develop and adopt appropriate alternative methods for determining, certifying, and labeling U-values for doors and skylights. U-values for doors and skylights determined, certified, and labeled in accordance with the appropriate NFRC standard shall be acceptable for compliance with the state energy code. Sealed insulation glass, where used, shall conform to, or be in the process of being tested for, ASTM E-774-81 class A or better))~~ be the 2006 edition of the Washington state energy code, or as amended by rule by the council.

~~(((6)))~~ (5) The minimum state energy code for new nonresidential buildings shall be the Washington state energy code, ~~((1986))~~ 2006 edition, or as amended by the council by rule.

~~(((7)))~~ (6)(a) Except as provided in (b) of this subsection, the Washington state energy code for residential structures shall preempt the residential energy code of each city, town, and county in the state of Washington.

(b) The state energy code for residential structures does not preempt a city, town, or county's energy code for residential structures which exceeds the requirements of the state energy code and which was adopted by the city, town, or county prior to March 1, 1990. Such cities, towns, or counties may not subsequently amend their energy code for residential structures to exceed the requirements adopted prior to March 1, 1990.

~~(((8)))~~ (7) The state building code council shall consult with the department of community, trade, and economic development as provided in RCW 34.05.310 prior to publication of proposed rules. ~~((The department of community, trade, and economic development shall review the proposed rules for consistency with the guidelines adopted in subsection (4) of this section.))~~ The director of the department of community, trade, and economic development shall recommend to the state building code council any changes necessary to conform the proposed rules to the requirements of this section.

(8) The state building code council shall evaluate and consider adoption of the international energy conservation code in Washington state in place of the existing state energy code.

(9) The definitions in section 2 of this act apply throughout this section.

NEW SECTION. **Sec. 5.** (1) Except as provided in subsection (2) of this section, residential and nonresidential construction permitted under the 2031 state energy code must achieve a seventy percent reduction in annual net energy consumption, using the adopted 2006 Washington state energy code as a baseline.

(2) The council shall adopt state energy codes from 2013 through 2031 that incrementally move towards achieving the seventy percent reduction in annual net energy consumption as specified in subsection (1) of this section. The council shall report its progress by December 31, 2012, and every three years thereafter. If the council determines that economic, technological, or process factors would significantly impede adoption of or compliance with this subsection, the council may defer the implementation of the proposed energy code update and shall report its findings to the

legislature by December 31st of the year prior to the year in which those codes would otherwise be enacted.

NEW SECTION. **Sec. 6.** (1) On and after January 1, 2010, qualifying utilities shall maintain records of the energy consumption data of all nonresidential and qualifying public agency buildings to which they provide service. This data must be maintained for at least the most recent twelve months in a format compatible for uploading to the United States environmental protection agency's energy star portfolio manager.

(2) On and after January 1, 2010, upon the written authorization or secure electronic authorization of a nonresidential building owner or operator, a qualifying utility shall upload the energy consumption data for the accounts specified by the owner or operator for a building to the United States environmental protection agency's energy star portfolio manager in a form that does not disclose personally identifying information.

(3) In carrying out the requirements of this section, a qualifying utility shall use any method for providing the specified data in order to maximize efficiency and minimize overall program cost. Qualifying utilities are encouraged to consult with the United States environmental protection agency and their customers in developing reasonable reporting options.

(4) Disclosure of nonpublic nonresidential benchmarking data and ratings required under subsection (5) of this section will be phased in as follows:

(a) By January 1, 2011, for buildings greater than fifty thousand square feet; and

(b) By January 1, 2012, for buildings greater than ten thousand square feet.

(5) Based on the size guidelines in subsection (4) of this section, a building owner or operator, or their agent, of a nonresidential building shall disclose the United States environmental protection agency's energy star portfolio manager benchmarking data and ratings to a prospective buyer, lessee, or lender for the most recent continuously occupied twelve-month period. A building owner or operator, or their agent, who delivers United States environmental protection agency's energy star portfolio manager benchmarking data and ratings to a prospective buyer, lessee, or lender is not required to provide additional information regarding energy consumption, and the information is deemed to be adequate to inform the prospective buyer, lessee, or lender regarding the United States environmental protection agency's energy star portfolio manager benchmarking data and ratings for the most recent twelve-month period for the building that is being sold, leased, financed, or refinanced.

(6) Notwithstanding subsections (4) and (5) of this section, nothing in this section increases or decreases the duties, if any, of a building owner, operator, or their agent under this chapter or alters the duty of a seller, agent, or broker to disclose the existence of a material fact affecting the real property.

NEW SECTION. **Sec. 7.** By December 31, 2009, to the extent that funding is appropriated specifically for the purposes of this section, the department shall develop and recommend to the legislature a methodology to determine an energy performance score for residential buildings and an implementation strategy to use such information to improve the energy efficiency of the state's existing housing supply. In developing its strategy, the department shall seek input from providers of residential energy audits, utilities, building contractors, mixed use developers, the residential real estate industry, and real estate listing and form providers.

NEW SECTION. **Sec. 8.** (1) The requirements of this section apply to the department of general administration and other qualifying state agencies only to the extent that specific appropriations are provided to those agencies referencing this act or chapter number and this section.

(2) By July 1, 2010, each qualifying public agency shall:

(a) Create an energy benchmark for each reporting public facility using a portfolio manager;

(b) Report to general administration, the environmental protection agency national energy performance rating for each reporting public facility included in the technical requirements for this rating; and

(c) Link all portfolio manager accounts to the state portfolio manager master account to facilitate public reporting.

(3) By January 1, 2010, general administration shall establish a state portfolio manager master account. The account must be designed to provide shared reporting for all reporting public facilities.

(4) By July 1, 2010, general administration shall select a standardized portfolio manager report for reporting public facilities. General administration, in collaboration with the United States environmental protection agency, shall make the standard report of each reporting public facility available to the public through the portfolio manager web site.

(5) General administration shall prepare a biennial report summarizing the statewide portfolio manager master account reporting data. The first report must be completed by December 1, 2012. Subsequent reporting shall be completed every two years thereafter.

(6) By July 1, 2010, general administration shall develop a technical assistance program to facilitate the implementation of a preliminary audit and the investment grade energy audit. General administration shall design the technical assistance program to utilize audit services provided by utilities or energy services contracting companies when possible.

(7) For a reporting public facility that is leased by the state with a national energy performance rating score below seventy-five, a qualifying public agency may not enter into a new lease or lease renewal on or after January 1, 2010, unless:

(a) A preliminary audit has been conducted within the last two years; and

(b) The owner or lessor agrees to perform an investment grade audit and implement any cost-effective energy conservation measures within the first two years of the lease agreement if the preliminary audit has identified potential cost-effective energy conservation measures.

(8)(a) Except as provided in (b) of this subsection, for each reporting public facility with a national energy performance rating score below fifty, the qualifying public agency, in consultation with general administration, shall undertake a preliminary energy audit by July 1, 2011. If potential cost-effective energy savings are identified, an investment grade energy audit must be completed by July 1, 2013. Implementation of cost-effective energy conservation measures are required by July 1, 2016. For a major facility that is leased by a state agency, college, or university, energy audits and implementation of cost-effective energy conservation measures are required only for that portion of the facility that is leased by the state agency, college, or university.

(b) A reporting public facility that is leased by the state is deemed in compliance with (a) of this subsection if the qualifying public agency has already complied with the requirements of subsection (7) of this section.

(9) Schools are strongly encouraged to follow the provisions in subsections (2) through (8) of this section.

(10) The director of the department of general administration, in consultation with the affected state agencies and the office of financial management, shall review the cost and delivery of agency programs to determine the viability of relocation when a facility leased by the state has a national energy performance rating score below fifty. The department of general administration shall establish a process to determine viability.

(11) General administration, in consultation with the office of financial management, shall develop a waiver process for the requirements in subsection (7) of this section. The director of the office of financial management, in consultation with general administration, may waive the requirements in subsection (7) of this section if the director determines that compliance is not cost-effective or feasible. The director of the office of financial management shall consider the review conducted by the department of general administration on the viability of relocation as established

in subsection (10) of this section, if applicable, prior to waiving the requirements in subsection (7) of this section.

(12) By July 1, 2011, general administration shall conduct a review of facilities not covered by the national energy performance rating. Based on this review, general administration shall develop a portfolio of additional facilities that require preliminary energy audits. For these facilities, the qualifying public agency, in consultation with general administration, shall undertake a preliminary energy audit by July 1, 2012. If potential cost-effective energy savings are identified, an investment grade energy audit must be completed by July 1, 2013.

NEW SECTION. **Sec. 9.** Sections 2, 3, and 5 through 8 of this act are each added to chapter 19.27A RCW."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kilmer moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5854.

Senator Kilmer spoke in favor of the motion.

Senator Honeyford spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Kilmer that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5854.

The motion by Senator Kilmer carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5854 by a rising vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5854, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5854, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 27; Nays, 18; Absent, 0; Excused, 4.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hobbs, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Ranker, Regala, Rockefeller, Shin and Tom

Voting nay: Senators Becker, Benton, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senators Brandland, Haugen, Jacobsen and Pridemore

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5854, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Delvin, Senator Carrell was excused.

MESSAGE FROM THE HOUSE

April 8, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5891 with the following amendment: 5891-S AMH HCW H2917.2

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature declares that collaboration among public payors, private health carriers, third-party purchasers, and providers to identify appropriate reimbursement methods to align incentives in support of primary care medical homes is in the best interest of the public. The legislature therefore intends to exempt from state antitrust laws, and to provide immunity from federal antitrust laws through the state action doctrine, for activities undertaken pursuant to pilots designed and implemented under section 2 of this act that might otherwise be constrained by such laws. The legislature does not intend and does not authorize any person or entity to engage in activities or to conspire to engage in activities that would constitute per se violations of state and federal antitrust laws including, but not limited to, agreements among competing health care providers or health carriers as to the price or specific level of reimbursement for health care services.

NEW SECTION. **Sec. 2.** A new section is added to chapter 70.54 RCW to read as follows:

The health care authority and the department of social and health services shall design, oversee implementation, and evaluate one or more primary care medical home reimbursement pilot projects in the state to include as participants public payors, private health carriers, third- party purchasers, and health care providers. Based on input from participants, the agencies shall:

(1) Determine the number and location of primary care medical home reimbursement pilots;

(2) Determine criteria to select primary care clinics to serve as pilot sites to facilitate testing of medical home reimbursement methods in a variety of primary care settings;

(3) Select pilot sites from those primary care provider clinics that currently employ a number of activities and functions typically associated with medical homes, or from sites that have been selected by the department of health to participate in a medical home collaborative under section 2, chapter 295, Laws of 2008;

(4) Determine one or more reimbursement methods to be tested by the pilots;

(5) Identify pilot performance measures for clinical quality, chronic care management, cost, and patient experience through patient self-reporting; and

(6) Appropriately coordinate during planning and operation of the pilots with the department of health medical home collaboratives and with other private and public efforts to promote adoption of medical homes within the state.

NEW SECTION. **Sec. 3.** A new section is added to chapter 70.54 RCW to read as follows:

The health care authority and the department of social and health services may select a pilot site that currently employs the following activities and functions associated with medical homes: Provision of preventive care, wellness counseling, primary care, coordination of primary care with specialty and hospital care, and urgent care services; availability of office appointments seven days per week and e-mail and telephone consultation; availability of telephone access for urgent care consultation on a seven-day per week, twenty-four hours per day basis; and use of a primary care provider panel size that promotes the ability of participating providers to appropriately provide the scope of services described in this section. The reimbursement method chosen for this pilot site must include a fixed monthly payment per person participating in the pilot site for the services described in this section. These services would be provided without the submission of claims for payment from any health carrier by the medical home provider. Agreements for payment made directly by a consumer or other entity paying on the consumer's behalf must comply with the provisions applicable to direct patient-provider primary care practices under chapter 48.150 RCW. In addition, the agencies may determine that the pilot should include a high deductible health plan or other health benefit plan designed to wrap around the primary care services offered under this section.

NEW SECTION. **Sec. 4.** This act expires July 1, 2013."

Correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Keiser moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5891.

Senators Keiser and Pflug spoke in favor of the motion.

MOTION

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

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5891.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5891 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5891, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5891, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 39; Nays, 6; Absent, 0; Excused, 4.

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

Voting nay: Senators Becker, Hewitt, Holmquist, Roach, Stevens and Zarelli

Excused: Senators Carrell, Haugen, Jacobsen and Pridemore

SUBSTITUTE SENATE BILL NO. 5891, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 16, 2009

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 5921 with the following amendment: 5921-S AMH ENGR H3314.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that Washington is recognized as a leader in sustainability and climate change and has the foundation to become a leader in the clean energy technologies, products, and services that will be required throughout the world to provide reliable and reduced-emission energy. However, to become a leader, Washington will need policies and strategies to develop new clean energy technologies, attract federal and private investments, attract and grow clean energy companies, and create green jobs.

The legislature further finds that positioning Washington to be competitive for federal and private sector clean energy investments will require collaboration between Washington's state agencies, clean energy technology companies, research institutions, national laboratory, and workforce development system to identify our strengths and develop the requisite policies and strategies.

It is the intent of the legislature to create a clean energy leadership initiative that will set the path to leverage Washington's energy infrastructure and make Washington a hub for clean energy technology and a leader in the creation of green jobs and the development, deployment, and export of clean energy technologies and services.

NEW SECTION. **Sec. 2.** (1) The office of the governor, in collaboration with a statewide, public-private alliance, shall convene a clean energy leadership council to prepare a strategy for growing the clean energy technology sector in Washington state. The clean energy leadership council shall be supported by public and private resources including, to the extent available, the resources of the energy policy division of the department of community, trade, and economic development and Washington State University's energy program. The governor, in consultation with the public-private alliance, shall appoint and convene the council by July 31, 2009.

(2) The clean energy leadership council must develop strategies and recommendations for growing Washington's clean energy sector. The clean energy leadership council must consist of the following clean energy leaders:

(a) Up to ten representatives of companies in the clean energy sector;

(b) Representatives of two organizations providing support to clean energy companies; and

(c) One representative from each of the following: A public university; the Pacific Northwest national laboratory; a venture capital firm making investments in clean energy companies; and a professional services firm serving clean energy technology.

(3) The clean energy leadership council must also include the following members:

(a) Four members of the legislature, with one member from each caucus of the house of representatives appointed by the speaker of the house of representatives and one member from each caucus of the senate appointed by the president of the senate;

(b) The director of the department of community, trade, and economic development or its successor agency;

(c) The governor's designee for energy and climate change initiatives within state government; and

(d) One representative from the economic development commission.

(4) The clean energy leadership council must be cochaired by: (a) A representative of the clean energy sector, selected by the members of the clean energy leadership council; and (b) the director of the department of community, trade, and economic development or its successor agency.

(5) The clean energy leadership council must designate one of its members as its representative on the evergreen jobs leadership team to ensure that the efforts of the clean energy leadership council align with the work of the evergreen jobs leadership team in coordinating the state's effort to lead in the green economy.

(6) Legislators shall not receive any compensation, including reimbursement of expenses, for their participation on the clean energy leadership council.

(7) The clean energy leadership council may appoint such advisory groups as it deems necessary to carry out its work.

(8) The clean energy leadership council shall:

(a) Conduct a strategic analysis to identify the clean energy industry segments where Washington can either provide national leadership or become one of the top ten states in that segment. The council shall contract with national experts with detailed knowledge of energy markets and other states' operations to conduct the strategic analysis. The strategic analysis must:

(i) Identify where Washington has a competitive advantage or emerging strength in research, development, or deployment of clean energy solutions;

(ii) Evaluate Washington's competitiveness in its business environment, including regulatory requirements, as it relates to supporting clean energy projects and companies, compared to other states and regions; and

(iii) Evaluate Washington's ability to provide national leadership in reducing carbon emissions, developing and deploying utility-scale clean energy applications, and creating exportable products and applications;

(b) Develop a set of strategic recommendations, including implementation steps and responsible parties for carrying them out. The strategic recommendations must provide direction for positioning each clean energy segment identified to provide national leadership and must include a delineation of clear, specific outcomes for each segment to achieve. The strategic recommendations must include recommendations on:

(i) Consistent policy frameworks that provide stability to encourage investment through a combination of incentives, regulation, taxation, and use of government purchasing power to build viable markets;

(ii) The steps necessary for increasing Washington's ability to obtain available competitive federal funds;

(iii) The development of public-private partnerships that can help each sector grow, including partnerships to facilitate development and deployment of new technologies at scale;

(iv) Necessary investments in universities;

(v) Management, entrepreneurial, and emerging business needs;

(vi) Joint use facilities, demonstration facilities, and signature research centers that are needed for leadership;

(vii) Market access requirements;

(viii) Infrastructure needs; and

(ix) Capital and financing requirements;

(c) Recommend an institutional mechanism to foster effective implementation of its recommendations, including organizational structure, staffing, and funding;

(d) Review investments made by the energy policy division of the department of community, trade, and economic development, Washington State University's energy program, utilities, and other entities to identify ways to leverage, increase the effectiveness of, or redirect those funds to increase the state's competitiveness in clean energy technology; and

(e) Make recommendations on potential clean energy programs and projects for possible federal funding through the state energy program, consistent with federal requirements and guidelines.

(9)(a) By December 1, 2009, the clean energy leadership council shall submit an interim clean energy strategy and initial recommendations to the governor and appropriate committees of the legislature.

(b) By December 1, 2010, the clean energy leadership council shall complete and submit its final clean energy strategy and recommendations to the governor and appropriate committees of the legislature.

NEW SECTION. **Sec. 3.** (1) The energy policy division of the department of community, trade, and economic development, or its successor agency, must consider the clean energy leadership strategy once it is developed under section 2 of this act when preparing its application for federal state energy program funding and determining the type and number of clean energy projects to fund.

(2) The energy policy division of the department of community, trade, and economic development, or its successor agency, must consult the clean energy leadership council, once it has been convened, prior to awarding federal energy stimulus funding for clean energy projects.

NEW SECTION. **Sec. 4.** (1) The governor shall designate an existing full-time equivalent position within state government as the single point of accountability for all energy and climate change initiatives within state agencies. All agencies, councils, or work groups with energy or climate change initiatives must coordinate with the person in this designated position.

(2) The person designated by the governor under subsection (1) of this section shall chair the evergreen jobs leadership team established in section 3, chapter . . . (Engrossed Second Substitute House Bill No. 2227), Laws of 2009.

NEW SECTION. **Sec. 5.** This act expires December 31, 2011.

NEW SECTION. **Sec. 6.** 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."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kastama moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5921.

Senator Kastama spoke in favor of the motion.

Senator Honeyford spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Kastama that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5921.

The motion by Senator Kastama carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5921 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5921, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5921, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 32; Nays, 13; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hobbs, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Ranker, Regala, Rockefeller, Sheldon, Shin, Swecker and Tom

Voting nay: Senators Becker, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Stevens and Zarelli

Excused: Senators Carrell, Haugen, Jacobsen and Pridemore

SUBSTITUTE SENATE BILL NO. 5921, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 9, 2009

MR. PRESIDENT:

The House has passed ENGROSSED SENATE BILL NO. 5925 with the following amendment: 5925.E AMH HE H2912.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28B.10.660 and 1993 sp.s. c 9 s 1 are each amended to read as follows:

(1) The governing boards of any of the state's institutions of higher education may make available liability, life, health, health care, accident, disability and salary protection or insurance or any one of, or a combination of, the enumerated types of insurance, or any other type of insurance or protection, for the regents or trustees and students of the institution. Except as provided in subsections (2) and (3) of this section, the premiums due on such protection or insurance shall be borne by the assenting regents, trustees, or students. The regents or trustees of any of the state institutions of higher education may make liability insurance available for employees of the institutions. The premiums due on such liability insurance shall be borne by the university or college.

(2) A governing board of a public four-year institution of higher education may make available, and pay the costs of, health benefits for graduate students holding graduate service appointments, designated as such by the institution. Such health benefits may provide coverage for spouses and dependents of such graduate student appointees.

(3) A governing board of a state institution of higher education may require its students who participate in studies or research outside of the United States sponsored, arranged, or approved by the institution to purchase, as a condition of participation, insurance approved by the governing board, that will provide coverage for expenses arising from emergency evacuation, repatriation of remains, injury, illness, or death sustained while participating in the study or research abroad. The governing board of the institution may bear all or part of the costs of the insurance. A student shall not be required to purchase insurance if the student is covered under an insurance policy that will provide coverage for expenses arising from emergency evacuation, repatriation of remains, injury, illness, or death sustained while participating in the study or research abroad."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kilmer moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5925.

Senators Kilmer, Becker and Shin spoke in favor of passage of the motion.

Senator Roach spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Kilmer that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5925.

The motion by Senator Kilmer carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 5925 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5925, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5925, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 34; Nays, 12; Absent, 0; Excused, 3.

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

Voting nay: Senators Becker, Benton, Hewitt, Holmquist, Honeyford, McCaslin, Morton, Parlette, Roach, Stevens, Swecker and Zarelli

Excused: Senators Carrell, Jacobsen and Pridemore

ENGROSSED SENATE BILL NO. 5925, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 5:29 p.m., on motion of Senator Eide, the Senate was declared to be at recess until 6:30 p.m.

EVENING SESSION

The Senate was called to order at 6:30 p.m. by President Owen.

MOTION

At 6:31 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 7:20 p.m. by President Owen.

MOTION

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

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2327, by House Committee on Ways & Means (originally sponsored by Representatives Linville and Ericks)

Eliminating or reducing the frequency of reports prepared by state agencies.

The measure was read the second time.

MOTION

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

Beginning on page 7, line 14, strike all of section 5

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

On page 17, beginning on line 9, strike all material through "1985 c 418 s 8;" on line 13

Renumber the remaining subsection consecutively.

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

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 2327.

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

MOTION

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

On page 1, line 3 of the title, after "13.60.110," strike "74.13.031,"

On page 1, line 8 of the title, after "43.70.518," strike "43.215.080, 43.215.435,"

MOTION

On motion of Senator Prentice, the rules were suspended, Engrossed Substitute House Bill No. 2327 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator McDermott, Senator Murray was excused.

POINT OF INQUIRY

Senator Oemig: "Would Senator Tom yield to a question? I'm curious. This legislation is going to reduce or outright eliminate some reports. I'm curious if this is going to preserve the data collection and thereby keep the transparency and save money only through reducing transmission costs or if it would also eliminate some of the data collection?"

Senator Tom: "This legislation was introduced at the request of the Office of Financial Management to reduce the frequency of reports not to eliminate the underlying data collection activities. The agency reports included in this legislation were selected because of the overlapping content of various statutory reports or that the information could be available to the legislature and to the public by more efficient means. The Office of Financial Management has assured us that all this information will be included in other reports or available upon request. In the legislative interim, we and the Office of Financial Management will be examining methods to make access to this kind of information more efficient and more timely. Our goal is to increase information access not to diminish it."

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2327 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2327 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 1; Excused, 1.

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

Voting nay: Senator Kastama

Absent: Senator Brown

Excused: Senator Murray

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2327 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

SENATE BILL NO. 6121, by Senators Tom, Zarelli and Keiser

Regarding the surcharge to fund biotoxin testing and monitoring.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, Senate Bill No. 6121 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.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6121.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6121 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Murray

SENATE BILL NO. 6121, 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

SENATE BILL NO. 6157, by Senators Prentice, Tom, Hobbs and Fraser

Calculating compensation for public retirement purposes during the 2009-2011 fiscal biennium.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, Senate Bill No. 6157 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.

Senator Zarelli spoke against passage of the bill.

MOTION

On motion of Senator Marr, Senator Brown was excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6157.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6157 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 12; Absent, 1; Excused, 1.

Voting yea: Senators Benton, Berkey, Carrell, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Swecker and Tom

Voting nay: Senators Becker, Delvin, Hewitt, Holmquist, King, McCaslin, Morton, Parlette, Pflug, Schoesler, Stevens and Zarelli

Absent: Senator Brandland

Excused: Senator Brown

SENATE BILL NO. 6157, 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

SENATE BILL NO. 6167, by Senators Kline, Regala and Hargrove

Concerning crimes against property.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, Senate Bill No. 6167 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.

Senator Carrell spoke against passage of the bill.

MOTION

On motion of Senator Delvin, Senator Brandland was excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6167.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6167 and the bill passed the Senate by the following vote: Yeas, 25; Nays, 21; Absent, 1; Excused, 2.

Voting yea: Senators Berkey, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Jacobsen, Jarrett, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

Voting nay: Senators Becker, Benton, Carrell, Delvin, Hewitt, Hobbs, Holmquist, Honeyford, Kauffman, Kilmer, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Absent: Senator Marr

Excused: Senators Brandland and Brown

SENATE BILL NO. 6167, 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

SENATE BILL NO. 6168, by Senators Tom and Prentice

Reducing costs in state elementary and secondary education programs.

The measure was read the second time.

MOTION

On motion of Senator Tom, the rules were suspended, Senate Bill No. 6168 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Tom and Zarelli spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6168.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6168 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 4; Absent, 0; Excused, 2.

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

Voting nay: Senators Benton, Carrell, Pflug and Roach

Excused: Senators Brandland and Brown

SENATE BILL NO. 6168, 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

SENATE BILL NO. 6172, by Senators Rockefeller and Ranker

Eliminating the oil spill advisory council. Revised for 1st Substitute: Suspending the powers and duties of the oil spill advisory council for the 2009-2011 biennium.

MOTIONS

On motion of Senator Prentice, Substitute Senate Bill No. 6172 was substituted for Senate Bill No. 6172 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Prentice, the rules were suspended, Substitute Senate Bill No. 6172 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6172.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6172 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Brandland

SUBSTITUTE SENATE BILL NO. 6172, 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

SENATE BILL NO. 6179, by Senators Tom, Fairley and Prentice

Concerning chemical dependency specialist services.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, Senate Bill No. 6179 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Senate Bill No. 6179.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6179 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Brandland

SENATE BILL NO. 6179, 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

SENATE BILL NO. 6181, by Senators Tom, Prentice and Fairley

Concerning the intensive resource home pilot.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, Senate Bill No. 6181 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Senate Bill No. 6181.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6181 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Brandland

SENATE BILL NO. 6181, 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 reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

April 20, 2009

MR. PRESIDENT:
The House concurred in Senate amendments to the following bills and passed the bills as amended by the Senate:
HOUSE BILL NO. 1166,
SUBSTITUTE HOUSE BILL NO. 1300,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1445,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1516,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1571,
HOUSE BILL NO. 1589,
ENGROSSED HOUSE BILL NO. 1824,
SECOND SUBSTITUTE HOUSE BILL NO. 1946,
SUBSTITUTE HOUSE BILL NO. 2287,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 20, 2009

MR. PRESIDENT:
The House has passed the following bills:
SUBSTITUTE HOUSE BILL NO. 2341,
SUBSTITUTE HOUSE BILL NO. 2343,
SUBSTITUTE HOUSE BILL NO. 2346,
HOUSE BILL NO. 2347,
HOUSE BILL NO. 2349,
SUBSTITUTE HOUSE BILL NO. 2361,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:
SENATE BILL NO. 5452,
SUBSTITUTE SENATE BILL NO. 5461,
SUBSTITUTE SENATE BILL NO. 5468,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5473,
SENATE BILL NO. 5482,
SUBSTITUTE SENATE BILL NO. 5504,
SUBSTITUTE SENATE BILL NO. 5509,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5513,
SUBSTITUTE SENATE BILL NO. 5531,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5688,

MOTION

At 8:06 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Tuesday, April 21, 2009.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate