**ONE-HUNDREDTH DAY**

MORNING SESSION

Senate Chamber, Olympia, Tuesday, April 21, 2009

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

The Sergeant at Arms Color Guard consisting of Pages Emmett West Fraser and Chloe Hatfield, presented the Colors. Pastor Dale Oquist of Evergreen Christian Community of Olympia offered the prayer.

MOTION

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

MOTION

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

MESSAGE FROM THE HOUSE

April 20, 2009

MR. PRESIDENT:
The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1208,
SUBSTITUTE HOUSE BILL NO. 1778,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2021,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2261,
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:
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2338,
SUBSTITUTE HOUSE BILL NO. 2339,
SUBSTITUTE HOUSE BILL NO. 2362,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:
SECOND SUBSTITUTE SENATE BILL NO. 5045,
SUBSTITUTE SENATE BILL NO. 5273,
SUBSTITUTE SENATE BILL NO. 5539,
SENATE BILL NO. 5540,
SUBSTITUTE SENATE BILL NO. 5556,
SUBSTITUTE SENATE BILL NO. 5561,
SUBSTITUTE SENATE BILL NO. 5565,
SUBSTITUTE SENATE BILL NO. 5566,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5583,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5601,
SUBSTITUTE SENATE BILL NO. 5608,
SUBSTITUTE SENATE BILL NO. 5610,
SUBSTITUTE SENATE BILL NO. 5616,
SENATE BILL NO. 5629,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5651,
SUBSTITUTE SENATE BILL NO. 5665,
SENATE BILL NO. 5673,

MOTION

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

INTRODUCTION AND FIRST READING

SB 6186 by Senator Shin

AN ACT Relating to disclosure of notes and information compiled during traffic stops; and amending RCW 42.56.010 and 42.56.240.

Referred to Committee on Judiciary.

SHB 2341 by House Committee on Ways & Means (originally sponsored by Representatives Cody and Kelley)

AN ACT Relating to changes in the basic health plan program necessary to implement the 2009-2011 operating budget; amending RCW 70.47.010, 70.47.020, 70.47.060, 70.47.070, 70.47.100, 74.09.053, and 70.47.170; and declaring an emergency.

Referred to Committee on Ways & Means.

SHB 2343 by House Committee on Ways & Means (originally sponsored by Representative Haigh)

AN ACT Relating to achieving savings in education programs by revising provisions relating to diagnostic assessments, classified staff training, conditional scholarships, certain professional development programs, coordination for career and technical student organizations, and national board certification bonuses; amending RCW 28A.655.200, 28A.415.315, 28A.660.050, 28A.415.350, 28A.415.250, and 28A.405.415; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SHB 2346 by House Committee on Ways & Means (originally sponsored by Representative Kagi)

AN ACT Relating to crisis residential centers; amending RCW 74.13.0321, 74.13.033, and 74.13.034; reenacting and amending RCW 13.32A.130; and adding a new section to chapter 13.32A RCW.

Referred to Committee on Ways & Means.

HB 2347 by Representative Kagi

AN ACT Relating to the review of support payments; and amending RCW 74.13.118.

Referred to Committee on Ways & Means.

HB 2349 by Representative Cody

AN ACT Relating to disproportionate share hospital adjustments; and amending RCW 74.09.730.

Referred to Committee on Ways & Means.

SHB 2361 by House Committee on Ways & Means (originally sponsored by Representative Cody)

AN ACT Relating to modifying state payments for in-home care; adding new sections to chapter 74.39A RCW; creating a new section; and declaring an emergency.

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.

SUPPLEMENTAL INTRODUCTION AND FIRST READING OF HOUSE BILLS

ESHB 2338 by House Committee on Ways & Means (originally sponsored by Representative Hunt)

AN ACT Relating to the administration and operations of growth management hearings boards; amending RCW 36.70A.260, 36.70A.270, and 36.70A.290; adding new sections to chapter 36.70A RCW; creating a new section; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SHB 2339 by House Committee on Ways & Means (originally sponsored by Representatives Kessler, Seaquist, Roberts, Williams, Simpson, Nelson, Ormsby, Dunshee, Goodman, Pedersen, Cody, Hasegawa, Kirby, Maxwell, Upthegrove, Finn, Eddy, Hunt, Orwall, Rolfes, Morrell, Kenney, Clibborn, Morris, Green, Kagi, Chase, Sells, Wood, Flannigan, Ericks, McCoy, Campbell, Appleton, Pettigrew, White, Blake, Linville, Wallace, Conway, Carlyle, Miloscia, Takko, O'Brien, Hurst and Van De Wege)

AN ACT Relating to requiring the department of licensing to collect a donation to benefit the state parks system as part of motor vehicle registration unless a vehicle owner opts not to provide a donation; and amending RCW 46.16.076.

Referred to Committee on Ways & Means.

SHB 2362 by House Committee on Ways & Means (originally sponsored by Representative Kessler)

AN ACT Relating to providing support for judicial branch agencies by imposing surcharges on court fees and requesting the supreme court to consider increases to attorney licensing fees; amending RCW 3.62.060, 12.40.020, and 36.18.018; reenacting and amending RCW 36.18.020; adding a new section to chapter 43.79 RCW; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

MOTION

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

MOTION

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

MOTION

Senator Ranker moved adoption of the following resolution:

SENATE RESOLUTION
8663

By Senators Ranker, Fraser, McAuliffe, and Eide

WHEREAS, Garden Raised Bounty (GRuB) was founded in 1993 as a grass roots nonprofit organization dedicated to nourishing a strong community by empowering people and growing good food; and

WHEREAS, GRuB has built over 2,200 free raised-bed vegetable gardens for low-income families in their community since 1993; and

WHEREAS, Each of these gardens produce over 600 dollars worth of produce each year; and

WHEREAS, GRuB employs and trains over thirty-five low-income teenagers every year to grow thousands of pounds of organic vegetables for the Olympia community and build free gardens for low-income families; and

WHEREAS, Upon entering the program during the years of 2001 to 2008 only forty percent of GRuB's youth were on track to graduate, but now more than eighty-eight percent of them have graduated or earned their GED; and

WHEREAS, GRuB has constructed a community and youth development facility and preserved a historic small urban farm ten minutes from downtown Olympia using, in part, Washington State Department of Community, Trade, and Economic Development capital facilities funding; and

WHEREAS, GRuB continues to meet an increasing demand on their services in the face of a struggling economy not only at home, but abroad; and

WHEREAS, GRuB's successful programs for youth development and food production models has led to partnering with other communities to replicate the program; and

WHEREAS, The GRuB pilot project in Lewis County will continue their successful efforts at the Growing Places Farm and Energy Park; and

WHEREAS, GRuB will continue its dedication to grow inspired, self-confident, and community-minded youth and help low-income families and seniors to help themselves by building them raised-bed gardens at their homes;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize GRuB for its many contributions to the low-income youth and families of Washington and the betterment of our communities; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Kim Gaffi and Blue Peetz, Codirectors of GRuB.

Senators Ranker, Fraser, Roach and McAuliffe spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8663.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced founders and representatives of the Garden Raised Bounty organization who

were seated in the gallery.

MOTION

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

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Kastama moved that Gubernatorial Appointment No. 9165, Rogers Weed, as a Director of the Department of Community, Trade and Economic Development, be confirmed.

Senators Kastama, McCaslin, Shin and Kilmer spoke in favor of passage of the motion.

MOTION

On motion of Senator Delvin, Senator Hewitt was excused.

MOTION

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

APPOINTMENT OF ROGERS WEED

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9165, Rogers Weed as a Director of the Department of Community, Trade and Economic Development.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9165, Rogers Weed as a Director of the Department of Community, Trade and Economic Development 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, Eide, Franklin, Fraser, Hargrove, Hatfield, 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, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, Haugen, Hewitt and Prentice

Gubernatorial Appointment No. 9165, Rogers Weed, having received the constitutional majority was declared confirmed as a Director of the Department of Community, Trade and Economic Development.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Rogers Weed, Director of the Department of Community, Trade and Economic Development who was seated in the gallery.

MOTION

At 10:33 a.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 11:48 a.m. by President Owen.

MOTION

On motion of Senator Eide, Rule 15 was suspended for the remainder of the day for the purpose of allowing continued floor action.

EDITOR'S NOTE: Senate Rule 15 establishes the floor schedule and calls for a lunch and dinner break of 90 minutes each per day during regular daily sessions.

MOTION

At 11:49 a.m., on motion of Senator Eide, the Senate was declared to be at recess until 1:00 p.m.

AFTERNOON SESSION

The Senate was called to order at 1:00 p.m. by President Owen.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Franklin moved that Gubernatorial Appointment No. 9138, Nita Rinehart, as a member of the Higher Education Coordinating Board, be confirmed.

Senator Franklin spoke in favor of the motion.

MOTION

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

MOTION

On motion of Senator Marr, Senators Brown, Fraser, Haugen, Regala and Tom were excused.

APPOINTMENT OF NITA RINEHART

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9138, Nita Rinehart as a member of the Higher Education Coordinating Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9138, Nita Rinehart as a member of the Higher Education Coordinating Board and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 2; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jarrett, Kastama, 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

Absent: Senators Jacobsen and Kauffman

Excused: Senators Delvin and Haugen

Gubernatorial Appointment No. 9138, Nita Rinehart, having received the constitutional majority was declared confirmed as a member of the Higher Education Coordinating Board.

MOTION

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

MESSAGE FROM THE HOUSE

April 7, 2009

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 5931 with the following amendment: 5931-S AMH JUDI ADAM 057

On page 1, beginning on line 4, strike all of section 1

Renumber the remaining section and correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kline moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5931.

Senator Kline spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kline that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5931.

The motion by Senator Kline carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5931 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5931, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5931, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 1; Absent, 2; Excused, 2.

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

Voting nay: Senator Carrell

Absent: Senators Jacobsen and Kauffman

Excused: Senators Delvin and Haugen

SUBSTITUTE SENATE BILL NO. 5931, 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

MR. PRESIDENT:
The House has passed SECOND SUBSTITUTE SENATE BILL NO. 5945 with the following amendment: 5945-S2 AMH ENGR H3041.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1**. The legislature finds that the principles for health care reform articulated by President Obama in his proposed federal fiscal year 2010 budget to the congress of the United States provide an opportunity for the state of Washington to be both a partner with, and a model for, the federal government in its health care reform efforts.

NEW SECTION. **Sec. 2.** (1) The following principles shall provide guidance to the state of Washington in its health care reform deliberations:

(a) Guarantee choice. Provide Americans a choice of health plans and physicians. People will be allowed to keep their own doctor and their employer-based health plan.

(b) Make health coverage affordable. Reduce waste and fraud, high administrative costs, unnecessary tests and services, and other inefficiencies that drive up costs with no added health benefits.

(c) Protect families' financial health. Reduce the growing premiums and other costs American citizens and businesses pay for health care. People must be protected from bankruptcy due to catastrophic illness.

(d) Invest in prevention and wellness. Invest in public health measures proven to reduce cost drivers in our system, such as obesity, sedentary lifestyles, and smoking, as well as guarantee access to proven preventive treatments.

(e) Provide portability of coverage. People should not be locked into their job just to secure health coverage, and no American should be denied coverage because of preexisting conditions.

(f) Aim for universality. Building on the work of the blue ribbon commission and other state health care reform initiatives and recognizing the current economic climate, the state will partner with national health care reform efforts toward a goal of enabling all Washingtonians to have access to affordable, effective health care by 2014 as economic conditions and national reforms indicate.

(g) Improve patient safety and quality care. Ensure the implementation of proven patient safety measures and provide incentives for changes in the delivery system to reduce unnecessary variability in patient care. Support the widespread use of health information technology with rigorous privacy protections and the development of data on the effectiveness of medical interventions to improve the quality of care delivered.

(h) Maintain long-term fiscal sustainability. Any reform plan must pay for itself by reducing the level of cost growth, improving productivity, and dedicating additional sources of revenue.

(2) Over the past twenty years, both the private and public health care sectors in the state of Washington have implemented policies that are consistent with the principles in subsection (1) of this section. Most recently, the governor's blue ribbon commission on health reform agreed to recommendations that are highly consistent with those principles. Current policies in Washington state in accord with those principles include:

(a) With respect to aiming for universality and access to a choice of affordable health care plans and health care providers:

(i) The Washington basic health plan offers affordable health coverage to low-income families and individuals in Washington state through a choice of private managed health care plans and health care providers;

(ii) Apple health for kids will achieve its dual goals that every child in Washington state have health care coverage by 2010 and that the health status of children in Washington state be improved. Only four percent of children in Washington state

lack health insurance, due largely to efforts to expand coverage that began in 1993;

(iii) Through the health insurance partnership program, Washington state has designed the infrastructure for a health insurance exchange for small employers that would give employers and employees a choice of private health benefit plans and health care providers, offer portability of coverage and provide a mechanism to offer premium subsidies to low-wage employees of these employers;

(iv) Purchasers, insurance carriers, and health care providers are working together to significantly reduce health care administrative costs. These efforts have already produced efficiencies, and will continue through the activities provided in Substitute House Bill No. 1647 and Second Substitute Senate Bill No. 5346, if enacted by the 2009 legislature; and

(v) Over one hundred thousand Washingtonians have enrolled in the state's discount prescription drug card program, saving consumers over six million dollars in prescription drug costs since February 2007, with an average discount of twenty-two dollars or forty-three percent of the price of each prescription filled.

(b) With respect to improving patient safety and quality of care and investing in prevention and wellness, the public and private health care sectors are engaged in numerous nationally recognized efforts:

(i) The Puget Sound health alliance is a national leader in identifying evidence-based health care practices, and reporting to the public on health care provider performance with respect to these practices. Many of these practices address disease prevention and management of chronic illness;

(ii) The Washington state health technology assessment program and prescription drug program use medical evidence and independent clinical advisors to guide the purchasing of clinically and cost-effective health care services by state-purchased health care programs;

(iii) Washington state's health record bank pilot projects are testing a new model of patient controlled electronic health records in three geographic regions of the state. The state has also provided grants to a number of small provider practices to help them implement electronic health records;

(iv) Efforts are underway to ensure that the people of Washington state have a medical home, with primary care providers able to understand their needs, meet their care needs effectively, better manage their chronic illnesses, and coordinate their care across the health care system. These efforts include group health cooperative of Puget Sound's medical home projects, care collaboratives sponsored by the state department of health, state agency chronic care management pilot projects; development of apple health for kids health improvement measures as indicators of children having a medical home, and implementation of medical home reimbursement pilot projects under Substitute Senate Bill No. 5891 and Second Substitute House Bill No. 2114, if enacted by the 2009 legislature; and

(v) Health care providers, purchasers, the state, and private quality improvement organizations are partnering to undertake numerous patient safety efforts, including hospital and ambulatory surgery center adverse events reporting, with root cause analysis to identify actions to be undertaken to prevent further adverse events; reporting of hospital acquired infections and undertaking efforts to reduce the rate of these infections; developing a surgical care outcomes assessment program that includes a presurgery checklist to reduce medical errors, and developing a patient decision aid pilot to more fully inform patients of the risks and benefits of treatment alternatives, decrease unnecessary procedures and variation in care, and provide increased legal protection to physicians whose patients use a patient decision aid to provide informed consent.

NEW SECTION. **Sec. 3.** (1) Beginning October 1, 2009, the governor shall convene quarterly meetings of the Washington health partnership advisory group. The advisory group will review progress and provide input related to further actions that can be taken in both the public and private sectors to implement the principles stated in section 2 of this act and the findings of the governor's blue ribbon commission on health reform. The membership of the advisory group shall include:

(a) Two members of the house of representatives and two members of the senate, representing the majority and minority caucuses of each body;

(b) The insurance commissioner;

(c) The secretary of the department of social and health services, the administrator of the health care authority, the director of the department of labor and industries, and the director of the office of financial management;

(d) Members of the forum, the Puget Sound health alliance, national federation of independent business, and the healthy Washington coalition, who will ensure that the perspectives of large and small employers, providers, health carriers, labor organizations, and consumers are actively involved in the group.

(2) The advisory group shall monitor the status and outcomes of activities at the state level with respect to their impact on access to affordable health care, cost containment and quality of care including, but not limited to:

(a) The programs and efforts described in section 2(2) of this act;

(b) Medicaid waivers submitted under sections 4 and 5 of this act; and

(c) Efforts to consolidate state health purchasing and streamline administration of the purchasing.

(3) The advisory group shall monitor the progress of health care reform legislation at the federal level, with the goal of aligning state health care activities so that the state is poised to participate in federal health care reform. If federal legislation is enacted that offers states the opportunity to undertake health care reform demonstration efforts, the governor, with the advice of the group established under this section, should actively seek to participate as a demonstration site.

(4) In its deliberations, the advisory group shall consider recent reports that have analyzed various health care reform proposals in Washington state.

(5) Members of the advisory group shall not be reimbursed for travel and per diem related to activities of the advisory group.

(6) The advisory group expires June 30, 2010.

NEW SECTION. **Sec. 4.** (1) The department shall submit a section 1115 demonstration waiver request to the federal department of health and human services to expand and revise the medical assistance program as codified in Title XIX of the federal social security act. The waiver request should be designed to ensure the broadest federal financial participation under Title XIX and XXI of the federal social security act. To the extent permitted under federal law, the waiver request should include the following components:

(a) Establishment of a single eligibility standard for low-income persons, including expansion of categorical eligibility to include childless adults. The department shall request that the single eligibility standard be phased in such that incremental steps are taken to cover additional low-income parents and individuals over time, with the goal of offering coverage to persons with household income at or below two hundred percent of the federal poverty level;

(b) Establishment of a single seamless application and eligibility determination system for all state low-income medical programs included in the waiver. Applications may be electronic and may include an electronic signature for verification and authentication. Eligibility determinations should maximize federal financing where possible;

(c) The delivery of all low-income coverage programs as a single program, with a common core benefit package that may be similar to the basic health benefit package or an alternative benefit package approved by the secretary of the federal department of health and human services, including the option of supplemental coverage for select categorical groups, such as children, and individuals who are aged, blind, and disabled;

(d) A program design to include creative and innovative approaches such as: Coverage for preventive services with incentives to use appropriate preventive care; enhanced medical home reimbursement and bundled payment methodologies; cost-sharing options; use of care management and care coordination programs to improve coordination of medical and behavioral health services; application of an innovative predictive risk model to better target care management services; and mandatory enrollment in managed care, as may be necessary;

(e) The ability to impose enrollment limits or benefit design changes for eligibility groups that were not eligible under the Title XIX state plan in effect on the date of submission of the waiver application;

(f) A premium assistance program whereby employers can participate in coverage options for employees and dependents of employees otherwise eligible under the waiver. The waiver should make every effort to maximize enrollment in employer-sponsored health insurance when it is cost-effective for the state to do so, and the purchase is consistent with the requirements of Titles XIX and XXI of the federal social security act. To the extent allowable under federal law, the department shall require enrollment in available employer-sponsored coverage as a condition of eligibility for coverage under the waiver; and

(g) The ability to share savings that might accrue to the federal medicare program, Title XVIII of the federal social security act, from improved care management for persons who are eligible for both medicare and medicaid. Through the waiver application process, the department shall determine whether the state could serve, directly or by contract, as a medicare special needs plan for persons eligible for both medicare and medicaid.

(2) The department shall hold ongoing stakeholder discussions as it is developing the waiver request, and provide opportunities for public review and comment as the request is being developed.

(3) The department and the health care authority shall identify statutory changes that may be necessary to ensure successful and timely implementation of the waiver request as submitted to the federal department of health and human services as the apple health program for adults.

(4) The legislature must authorize implementation of any waiver approved by the federal department of health and human services under this section.

NEW SECTION. **Sec. 5.** (1) The department shall continue to submit applications for the family planning waiver program.

(2) The department shall submit a request to the federal department of health and human services to amend the current family planning waiver program as follows:

(a) Provide coverage for sexually transmitted disease testing and treatment;

(b) Return to the eligibility standards used in 2005 including, but not limited to, citizenship determination based on declaration or matching with federal social security databases, insurance eligibility standards comparable to 2005, and confidential service availability for minors and survivors of domestic and sexual violence; and

(c) Within available funds, increase income eligibility to two hundred fifty percent of the federal poverty level, to correspond with income eligibility for publicly funded maternity care services.

NEW SECTION. **Sec. 6.** Sections 2 and 3 of this act are each added to chapter 43.06 RCW.

NEW SECTION. **Sec. 7.** Sections 4 and 5 of this act are each added to chapter 74.09 RCW."

"NEW SECTION. **Sec. 8.** The following acts or parts of acts are each repealed:

(1) RCW 43.20A.560 (Development of options to expand health care options--Consideration of federal waivers and state plan amendments required) and 2007 c 259 s 23; and

(2) RCW 74.09.740 (Amendments to state plan--Federal approval required) and 2002 c 3 s 14."

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. 5945.

Senator Keiser spoke in favor of passage of the motion.

MOTION

On motion of Senator Marr, Senators Brown, Jacobsen and Kauffman 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. 5945.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5945 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5945, as amended by the House.

Senator Pflug spoke against passage of the bill.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5945, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 28; Nays, 19; Absent, 0; Excused, 2.

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, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

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

Excused: Senators Haugen and Jacobsen

SECOND SUBSTITUTE SENATE BILL NO. 5945, 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. 5967 with the following amendment: 5967-S.E AMH JUDI ADAM 055

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1** The legislature finds and declares:

On June 23, 1972, President Richard Nixon signed into law Title IX of the Education Amendments of 1972 to the 1964 Civil Rights Act. This landmark legislation provides that: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance...." Title IX has expanded opportunities for males as well as females in educational programs and activities, including ensuring access to athletic opportunities for girls and women in educational institutions and to male and female staff to coaching and athletics administrative positions in educational institutions. The dramatic increases in participation rates at both the high school and college levels since Title IX was passed show that when doors are opened to women and girls, they will participate.

Further, ensuring equality in the state of Washington, the legislature passed an amendment to the state Constitution, ratified by the voters in November 1972, providing "Equality of rights and responsibilities under the law shall not be denied or abridged on account of sex." In 1975, Washington continued to be at the forefront of this issue by adopting legislation that established our own statutory version of the federal Title IX law that prohibited "inequality in the educational opportunities afforded women and girls at all levels of the public schools in Washington state."

Athletic opportunities provide innumerable benefits to participants, including greater academic success, better physical and psychological health, responsible social behaviors, and enhanced interpersonal skills. Athletic scholarships make it possible for some young people to attend college. The Washington state legislature, recognizing the importance of full participation in athletics, has passed numerous bills directed at achieving equity and eliminating discrimination in intercollegiate athletics in the state's institutions of higher education.

Despite advances in educational settings and efforts by some local agencies to expand opportunities in community athletics programs, discrimination still exists that limits these opportunities. It is the intent of the legislature to expand and support equal participation in athletics programs, and provide all sports programs equal access to facilities administered by cities, towns, counties, metropolitan park districts, park and recreation service areas, or park and recreation districts.

Nothing in this act is intended to affect the holding in the Washington state supreme court's ruling in *Darrin v. Gould,* 85 Wn.2d 859, 540 P.2d 882 (1975) and its progeny that held it is not acceptable to discriminate in contact sports on the basis of sex.

NEW SECTION. **Sec. 2** (1) No city, town, county, or district may discriminate against any person on the basis of sex in the operation, conduct, or administration of community athletics programs for youth or adults. A third party receiving a lease or permit from a city, town, county, district, or a school district, for a community athletics program also may not discriminate against any person on the basis of sex in the operation, conduct, or administration of community athletics programs for youth or adults.

(2) The definitions in this subsection apply throughout this section.

(a) "Community athletics program" means any athletic program that is organized for the purposes of training for and engaging in athletic activity and competition and that is in any way operated, conducted, administered, or supported by a city, town, county, district, or school district other than those offered by the school and created solely for the students by the school.

(b) "District" means any metropolitan park district, park and recreation service area, or park and recreation district.

NEW SECTION. **Sec. 3** (1) By January 1, 2010, each city, town, county, or district operating a community athletics program or issuing permission to a third party for the operation of such program on its facilities shall adopt a policy that specifically prohibits discrimination against any person on the basis of sex in the operation, conduct, or administration of community athletics programs for youth or adults.

(2) It is the responsibility of each city, town, county, or district operating a community athletics program or issuing permission to a third party for the operation of such program on its facilities to publish and disseminate this policy. At a minimum, the nondiscrimination policy should be included in any publication that includes information about the entity's own athletics programs, or about obtaining a permit for operating athletics programs and on the appropriate city, town, county, or district web site.

(3) School districts issuing permission to a third party for the operation of a community athletics program on its facilities shall also follow the provisions of this section but may modify and use existing school district policies and procedures to the extent that is possible. Nothing in this section may be construed to require school districts to monitor compliance, investigate complaints, or otherwise enforce school district policies as to third parties using school district facilities.

(4) Every city, town, county, or district covered by this section should also publish the name, office address, and office telephone number of the employee or employees responsible for its efforts to comply with and carry out its responsibilities under this act.

NEW SECTION. **Sec. 4** A new section is added to chapter 35.21 RCW to read as follows:

The antidiscrimination provisions of section 2 of this act apply to community athletics programs and facilities operated, conducted, or administered by a city or town.

NEW SECTION. **Sec. 5** A new section is added to chapter 35.61 RCW to read as follows:

The antidiscrimination provisions of section 2 of this act apply to community athletics programs and facilities operated, conducted, or administered by a metropolitan park district.

NEW SECTION. **Sec. 6** A new section is added to chapter 35A.21 RCW to read as follows:

The antidiscrimination provisions of section 2 of this act apply to community athletics programs and facilities operated, conducted, or administered by a code city.

NEW SECTION. **Sec. 7** A new section is added to chapter 36.01 RCW to read as follows:

The antidiscrimination provisions of section 2 of this act apply to community athletics programs and facilities operated, conducted, or administered by a county.

NEW SECTION. **Sec. 8** A new section is added to chapter 36.68 RCW to read as follows:

The antidiscrimination provisions of section 2 of this act apply to community athletics programs and facilities operated, conducted, or administered by a park and recreation service area.

NEW SECTION. **Sec. 9.** A new section is added to chapter 36.69 RCW to read as follows:

The antidiscrimination provisions of section 2 of this act apply to community athletics programs and facilities operated, conducted, or administered by a park and recreation district.

NEW SECTION. **Sec. 10.** Sections 2 and 3 of this act are each added to chapter 49.60 RCW."

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 Engrossed Substitute Senate Bill No. 5967.

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 Engrossed Substitute Senate Bill No. 5967.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5967 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5967, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5967, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 3; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, 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, Tom and Zarelli

Voting nay: Senators Honeyford, McCaslin and Morton

Excused: Senators Haugen and Jacobsen

ENGROSSED SUBSTITUTE SENATE BILL NO. 5967, 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.

are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 8, 2009

MR. PRESIDENT:

The House has passed SENATE BILL NO. 5974 with the following amendment: 5974 AMH AGNR H2951.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 16.36.116 and 2007 c 71 s 3 are each amended to read as follows:

(1) Any person found transporting animals on the public roads of this state that are not accompanied by valid health certificates, permits, or other documents as required by this chapter or its rules has committed a class 1 civil infraction.

(2) Any person who knowingly transports or accepts delivery of live nonambulatory livestock to, from, or between any livestock market, feedlot, slaughtering facility, or similar facility that trades in livestock has committed a civil infraction and shall be assessed a monetary penalty not to exceed one thousand dollars. The transport or acceptance of each nonambulatory livestock animal is considered a separate and distinct violation. Livestock that was ambulatory prior to transport to a feedlot and becomes nonambulatory because of an injury sustained during transport may be unloaded and placed in a separate pen for rehabilitation at the feedlot. For the purposes of this section, "nonambulatory livestock" has the same meaning as in RCW 16.52.225.

(3) The director is authorized to issue notices of and enforce civil infractions in the manner prescribed under chapter 7.80 RCW.

**Sec. 2.** RCW 16.52.225 and 2004 c 234 s 1 are each amended to read as follows:

(1) Unless otherwise cited for a civil infraction by the department of agriculture under RCW 16.36.116(2), a person is guilty of a gross misdemeanor punishable as provided in RCW 9A.20.021 if he or she knowingly transports or accepts delivery of live nonambulatory livestock to, from, or between any livestock market, feedlot, slaughtering facility, or similar facility that trades in livestock. The transport or acceptance of each nonambulatory livestock animal is considered a separate and distinct violation.

(2) Nonambulatory livestock must be humanely euthanized before transport to, from, or between locations listed in subsection (1) of this section.

(3) Livestock that was ambulatory prior to transport to a feedlot and becomes nonambulatory because of an injury sustained during transport may be unloaded and placed in a separate pen for rehabilitation at the feedlot.

(4) For the purposes of this section, "nonambulatory livestock" means cattle, sheep, swine, goats, horses, mules, or other equine that cannot rise from a recumbent position or cannot walk, including but not limited to those with broken appendages, severed tendons or ligaments, nerve paralysis, a fractured vertebral column, or metabolic conditions."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hatfield moved that the Senate concur in the House amendment(s) to Senate Bill No. 5974.

Senator Hatfield spoke in favor of the motion.

MOTION

On motion of Senator Brandland, Senator Pflug was excused.

The President declared the question before the Senate to be the motion by Senator Hatfield that the Senate concur in the House amendment(s) to Senate Bill No. 5974.

The motion by Senator Hatfield carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5974 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5974, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5974, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 2; Excused, 2.

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

Absent: Senators Kastama and McCaslin

Excused: Senators Haugen and Pflug

SENATE BILL NO. 5974, 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.

The Senate resumed consideration of Engrossed Second Substitute Senate Bill No. 5649 which had been deferred on the previous day.

RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Schoesler as to the scope and object of House Amendment #711 to Engrossed Second Substitute Senate Bill 5649, the President finds and rules as follows:

E2SSB 5649 as it passed the Senate is a broad measure that directs several state agencies to provide financial and technical assistance to local governments, nongovernmental entities, and other entities to provide for energy efficiency audits and improvements in home, commercial building and on farms. It establishes criteria for eligible projects and provides preferences for projects that meet certain criteria. House Amendment #711 provides additional detail regarding these criteria. While the standards may differ between the Senate bill and the House amendment, they both address criteria for eligibility and preference.

For this reason, the President finds that Senator Schoesler's point is not well-taken. The House amendment is properly before the body for consideration."

MOTION

Senator Rockefeller moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5649.

Senator Rockefeller spoke in favor of the motion.

MOTION

On motion of Senator Delvin, Senator McCaslin was excused.

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 Second Substitute Senate Bill No. 5649.

The motion by Senator Rockefeller carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5649 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5649, as amended by the House.

Senator Honeyford spoke against final passage.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5649, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 30; Nays, 17; Absent, 1; Excused, 1.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hatfield, 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

Absent: Senator Hargrove

Excused: Senator Haugen

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5649, 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.

The Senate resumed consideration of Engrossed Second Substitute Senate Bill No. 5560 which had been deferred on the previous day.

RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Swecker as to the scope and object of the House Amendment to Engrossed Second Substitute Senate Bill 5560, the President finds and rules as follows:

E2SSB 5560 as it passed the Senate is a broad measure that directs all state agencies to plan and undertake actions that will help to achieve specified statewide limits to emissions of greenhouse gases. The House Amendment directs state agencies to apply these same considerations in their administration of capital funding programs.

The President finds that the amendment extends to state capital funding programs the same requirements of state agencies in all other state government programs.

For this reason, the President finds that Senator Swecker's point is not well-taken. The House amendment is properly before the body for consideration."

MOTION

Senator Rockefeller moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5560.

Senator Rockefeller spoke in favor of the motion.

Senator Honeyford spoke against the motion.

MOTION

On motion of Senator Marr, Senator Brown was excused.

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 Second Substitute Senate Bill No. 5560.

The motion by Senator Rockefeller carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5560 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5560, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5560, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 28; Nays, 19; Absent, 0; Excused, 2.

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

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

Excused: Senators Brown and Haugen

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5560, 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 ENGROSSED SUBSTITUTE SENATE BILL NO. 5978 with the following amendment: 5978-S.E AMH CL HELA 044

On page 2, line 7, after "offering" strike "or processing"

On page 2, after line 12, insert the following:

"(4) This section applies only to the person offering the rebate, which is the person who provides the cash, credit, or credit towards future purchases to the consumer. This section does not apply to a person who processes a rebate or who provides consumers with instructions or materials related to a rebate."

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. 5978.

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

MOTION

On motion of Senator Holmquist, Senator Brandland was excused.

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. 5978.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5978 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5978, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5978, 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, 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 Brown

ENGROSSED SUBSTITUTE SENATE BILL NO. 5978, 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. 6009 with the following amendment: 6009-S AMH HCW H2893.2

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 70.129 RCW to read as follows:

(1) A long-term care facility must fully disclose to residents the facility's policy on accepting medicaid as a payment source. The policy shall clearly state the circumstances under which the facility provides care for medicaid eligible residents and for residents who may later become eligible for medicaid.

(2) The policy under this section must be provided to residents orally and in writing prior to admission, in a language that the resident or the resident's representative understands. The written policy must be in type font no smaller than fourteen point and written on a page that is separate from other documents. The policy must be signed and dated by the resident or the resident's representative, if the resident lacks capacity. The facility must retain a copy of the disclosure. Current residents must receive a copy of the policy consistent with this section by the effective date of this act."

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. 6009.

Senators Keiser and Pflug spoke in favor of passage 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. 6009.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6009 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6009, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6009, 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, 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, Tom and Zarelli

Voting nay: Senators McCaslin and Morton

Excused: Senator Brown

SUBSTITUTE SENATE BILL NO. 6009, 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 ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6015 with the following amendment:6015-S2.E AMH APPG H3082.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) Washington state is fortunate to have a dynamic technology industry sector that benefits from vibrant global demand for its output and that helps drive the state's economy. Washington state is uniquely positioned to shape its future success in innovation in the technology sectors of life sciences and high technology. Nearly every state in the nation is competing to develop a strong innovation economy. Washington has world-class research institutions, entrepreneurial spirit and talent, an actively collaborative community, and an existing foundational sector.

(2) To leverage its potential, the state must actively work to create and ensure a supportive environment that enables entrepreneurial people and companies to convert their innovative ideas into marketable new products and services. Providing such an environment would: Solidify Washington state as a global leader of knowledge and technology commercialization; create more highly rewarding and well-paying careers for Washington's citizens; grow more companies in new and far-reaching markets; renew traditional industries through value- added technology adaptation; and generate solid returns for Washington state.

NEW SECTION. **Sec. 2.** (1) By December 1, 2009, the department of community, trade, and economic development shall report to the governor and the legislature on how the state can best encourage and support the growth of innovation in the development and commercialization of proprietary technology in the life sciences and information technology industries.

(2) In consultation with life sciences trade and technology trade associations, the department shall:

(a) Investigate and recommend strategies to increase the amount of local or regional capital targeted to preseed, seed, and other early stage investments in life sciences and information technology companies;

(b) Examine state laws, rules, appropriations, and taxes related to life sciences and information technology, identify barriers, and recommend alternatives that will support growth of these industries;

(c) Evaluate the state's technology-based economic development efforts and recommend any additional infrastructure needed to assist companies at each stage of the business life cycle; and

(d) Review the status of technology transfer and commercialization efforts by the state's public research universities.

(3) The department shall provide a draft report of its findings and recommendations to the Washington state economic development commission. The commission shall compare the recommendations in the draft report to the overall direction and strategies related to life sciences and information technology adopted in the state's comprehensive economic development plan. The commission shall provide written observations to the department on areas of alignment or nonalignment between the report and the plan. The final report shall include the commission's observations and shall reflect any changes made to the report by the department in response to the commission's comments.

(4) For purposes of the report: (a) "Life sciences" must include but is not limited to: Medical devices and biotechnology as defined in RCW 82.63.010; and (b) "information technology" must include but is not limited to: Hardware, software, and internet infrastructure, that address high potential emerging and growing markets.

(5) From the funds appropriated for the purposes of this section, the money available for expenditure may not exceed the amount matched dollar-for-dollar by cash or in-kind contributions from nonstate sources.

(6) This section expires December 31, 2009."

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 Engrossed Second Substitute Senate Bill No. 6015.

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 Engrossed Second Substitute Senate Bill No. 6015.

The motion by Senator Kastama carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6015 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6015, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6015, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 32; Nays, 16; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Delvin, 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, Sheldon, Shin and Tom

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

Excused: Senator Brown

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6015, 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.

PERSONAL PRIVILEGE

Senator McCaslin: "It took me twenty-nine years but I finally influenced someone."

MESSAGE FROM THE HOUSE

April 13, 2009

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 6016 with the following amendment: 6016-S AMH ED H2938.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** Dyslexia is a language-based learning disability that affects individuals throughout their lives. Washington state has a long-standing tradition of working to serve its students with dyslexia. Since 2005, the legislature has provided funding for five pilot projects to implement research-based, multisensory literacy intervention for students with dyslexia. Participating schools were required to have a three-tiered reading structure in place, provide professional development training to teachers, assess students, and collect and maintain data on student progress.

The legislature finds that the students receiving intervention support through the dyslexia pilot projects have made substantial and steady academic gains. The legislature intends to sustain this work and expand the implementation to a level of statewide support for students with dyslexia by developing and providing information and training, including a handbook to continue to improve the skills of our students with dyslexia.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) Within available resources, the office of the superintendent of public instruction, in consultation with the school districts that participated in the Lorraine Wojahn dyslexia pilot program, and with an international nonprofit organization dedicated to supporting efforts to provide appropriate identification of and instruction for individuals with dyslexia, shall:

(a) Develop an educator training program to enhance the reading, writing, and spelling skills of students with dyslexia. The training program must provide research-based, multisensory literacy intervention professional development in the areas of dyslexia and intervention implementation. The program shall be posted on the web site of the office of the superintendent of public instruction. The training program may be regionally delivered through the educational service districts. The educational service districts may seek assistance from the international nonprofit organization to deliver the training; and

(b) Develop a dyslexia handbook to be used as a reference for teachers and parents of students with dyslexia. The handbook shall be modeled after other state dyslexia handbooks, and shall include guidelines for school districts to follow as they identify and provide services for students with dyslexia. Additionally, the handbook shall provide school districts, and parents and guardians with information regarding the state's relevant statutes and their relation to federal special education laws. The handbook shall be posted on the web site of the office of the superintendent of public instruction.

(2) Beginning September 1, 2009, and annually thereafter, each educational service district shall report to the office of the superintendent of public instruction the number of individuals who participate in the training developed and offered by the educational service district. The office of the superintendent of public instruction shall report that information to the legislative education committees."

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. 6016.

Senator McAuliffe spoke in favor of the motion.

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. 6016.

The motion by Senator McAuliffe carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6016 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6016, as amended by the House.

Senator Benton spoke in favor of passage of the bill.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6016, 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, 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 Brown

SUBSTITUTE SENATE BILL NO. 6016, 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. 6033 with the following amendment: 6033.E AMH FII H2929.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.320.160 and 2008 c 322 s 1 are each amended to read as follows:

(1) The ((~~smart homeownership choices~~)) prevent or reduce owner- occupied foreclosure program is created in the department to assist ((~~low-income and moderate-income households, as defined in RCW 84.14.010,~~)) borrowers facing foreclosure in achieving work-outs, loan modifications, or other results that keep them in their homes. The borrowers are households, families, and individuals who are residents of Washington state, with an emphasis on borrowers with incomes up to one hundred forty percent of median income level of the county in which the borrower resides.

(2) The department shall enter into an interagency agreement with the Washington state housing finance commission to implement and administer this program with moneys from the account created in RCW 43.320.165. The Washington state housing finance commission will request funds from the department as needed to implement and operate the program.

(3) The commission shall, under terms and conditions to be determined by the commission, in consultation with the department, assist homeowners who are ((~~delinquent on their mortgage payments to bring their mortgage payments current in order to refinance into a different loan product~~)) facing foreclosure in achieving work-outs, loan modifications, or other results that keep them in their homes. ((~~Financial assistance received by homeowners under this chapter shall be repaid at the time of refinancing into a different loan product. Homeowners receiving financial assistance shall also agree to partake in a residential mortgage counseling program.~~)) Moneys may also be used for outreach activities to raise awareness of this program; creating and maintaining a pool of volunteers consisting of attorneys, accountants, banking professionals, mortgage brokers, housing counselors, and other relevant professionals who participate in the program as needed and without compensation to provide advice and representation to the borrower in achieving work-outs, loan modifications, or other results that keep them in their homes; and administering assignments of volunteers to borrowers in the most productive manner. Not more than four percent of the total appropriation for this program may be used for administrative expenses of the department and the commission.

(4) The commission must provide an annual report to the legislature at the end of each fiscal year of program operation. The report must include information ((~~including the total number of households seeking help to resolve mortgage delinquency, the number of program participants that successfully avoided foreclosure, and the number of program participants who refinanced a home, including information on the terms of both the new loan product and the product out of which the homeowner refinanced~~)) determined by the prevent or reduce owner- occupied foreclosure oversight committee established under section 4 of this act to be useful in assessing the success of the program. The commission shall establish and report upon performance measures, including measures to gauge program efficiency and effectiveness and customer satisfaction.

(5) For the purposes of this section, "work-out" means an agreement made between the borrower and the mortgagee or beneficiary under a deed of trust, or with the authorized agent of the mortgagee or beneficiary, that results in the borrower's continued residence in the mortgaged residential property.

**Sec. 2.** RCW 43.320.165 and 2008 c 322 s 2 are each amended to read as follows:

The ((~~smart homeownership choices~~)) prevent or reduce owner- occupied foreclosure program account is created in the custody of the state treasurer. All receipts from the appropriation in section 4, chapter 322, Laws of 2008 as well as receipts from private contributions and all other sources that are specifically designated for the ((~~smart homeownership choices~~)) prevent or reduce owner- occupied foreclosure program must be deposited into the account. Expenditures from the account may be used solely for the purpose of preventing or reducing owner-occupied foreclosures through the ((~~smart homeownership choices~~)) prevent or reduce owner-occupied foreclosure program as described in RCW 43.320.160. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**Sec. 3.** RCW 43.320.170 and 2008 c 322 s 3 are each amended to read as follows:

The Washington state housing finance commission shall ((~~only~~)) serve ((~~low-income~~)) households, ((~~as defined in RCW 84.14.010,~~)) families, and individuals who are residents of Washington state, with an emphasis on borrowers with incomes up to one hundred forty percent of the median income level of the county in which the borrower resides, through the ((~~smart homeownership choices~~)) prevent or reduce owner- occupied foreclosure program described in RCW 43.320.160 using state appropriated general funds in the ((~~smart homeownership choices~~)) prevent or reduce owner-occupied foreclosure program account created in RCW 43.320.165((~~.~~)) and contributions from private and other sources ((~~to the account may be used to serve both low-income and moderate- income households, as defined in RCW 84.14.010, through the smart homeownership choices program~~)).

NEW SECTION. **Sec. 4.** A new section is added to chapter 43.320 RCW to read as follows:

(1) The housing finance commission shall establish a prevent or reduce owner-occupied foreclosure oversight committee to consist of:

(a) One member from each of the two largest caucuses of the senate, appointed by the president of the senate;

(b) One member from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives;

(c) The director of the department of financial institutions as an ex officio member;

(d) The executive director of the housing finance commission as an ex officio member;

(e) A representative of the Washington state bar association;

(f) A representative of the office of civil legal aid;

(g) A representative of a banker's association;

(h) A representative of the Washington state board of accountancy;

(i) A representative of community banks;

(j) A representative of mortgage brokers;

(k) A representative of housing counselors; and

(l) A representative of credit unions.

(2) The members of the prevent or reduce owner-occupied foreclosure oversight committee shall serve without compensation.

(3) The prevent or reduce owner-occupied foreclosure oversight committee shall serve as the housing finance commission's principal advisory body on the prevent or reduce owner-occupied foreclosure program, and must:

(a) Develop criteria for success of the program that may include: Number of borrowers served; number of work-outs achieved; amount of homeowner funds received for homeowner stabilization; and number of volunteer professionals participating;

(b) Periodically evaluate the effectiveness of the program according to the criteria developed under (a) of this subsection;

(c) Develop and maintain an inventory of state and federal housing assistance programs directed to stabilize owner-occupied homes; and

(d) Coordinate all state efforts related to prevention or reduction of owner-occupied foreclosures.

(4) Any of the duties under subsection (3) of this section may be delegated to the executive director of the housing finance commission.

(5) The prevent or reduce owner-occupied foreclosure oversight committee shall meet regularly.

(6) The housing finance commission must provide information and assistance as requested for the prevent or reduce owner-occupied foreclosure oversight committee to carry out its duties under this section.

(7) Staff support for the committee must be provided by the housing finance commission.

NEW SECTION. **Sec. 5.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2011:

5.1.1.1. RCW 43.320.160 (Smart homeownership choices program--Report) and section 1 of this act & 2008 c 322 s 1;

5.1.1.2. RCW 43.320.165 (Smart homeownership choices program account) and section 2 of this act & 2008 c 322 s 2;

5.1.1.3. RCW 43.320.170 (Smart homeownership choices program-- Expenditures--Low-income households--Moderate-income households) and section 3 of this act & 2008 c 322 s 3; and

(4) Section 4 of this act."

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. 6033.

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. 6033.

The motion by Senator Berkey carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 6033 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6033, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6033, 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, 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 Brown

ENGROSSED SENATE BILL NO. 6033, 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. 6036 with the following amendment: 6036-S AMH AGNR H2952.5

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 90.48 RCW to read as follows:

The department shall amend the state water quality standards to authorize compliance schedules in excess of ten years for discharge permits issued under this chapter that implement allocations contained in a total maximum daily load under certain circumstances. Any such amendment must be submitted to the United States environmental protection agency under the clean water act. Compliance schedules for the permits may exceed ten years if the department determines that:

(1) The permittee is meeting its requirements under the total maximum daily load as soon as possible;

(2) The actions proposed in the compliance schedule are sufficient to achieve water quality standards as soon as possible;

(3) A compliance schedule is appropriate; and

(4) The permittee is not able to meet its waste load allocation solely by controlling and treating its own effluent."

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. 6036.

Senator Rockefeller spoke in favor 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 Substitute Senate Bill No. 6036.

The motion by Senator Rockefeller carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6036 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6036, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6036, 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, 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 Brown

SUBSTITUTE SENATE BILL NO. 6036, 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 SENATE BILL NO. 6070 with the following amendment: 6070 AMH ENGR H3027.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 79.140 RCW under the subchapter heading "special provisions and leases" to read as follows:

(1)(a) The legislature finds and declares that an extraordinary volume of material washed down onto beds of navigable waters and shorelands in the Toutle river, Coweeman river, and portions of the Cowlitz river following the eruption of Mount St. Helens in 1980.

(b) The legislature further finds that the owners of private lands located near the impacted rivers were authorized to sell, transfer, or otherwise dispose of any dredge spoils removed from the river between the years of 1980 and 1995 without the necessity of any charge by the department.

(c) The legislature further finds that the dredging activities following the eruption of Mount St. Helens are no longer adequate to protect engineered structures on the affected rivers or the public health and safety of the communities located in proximity to the affected rivers. Future river dredging will be necessary as part of managing the post-eruption state of the rivers, and with the commencement of new dredging activities, the underlying conditions leading to the previous authority for private landowners to dispose of the dredged materials without the necessity of any charge by the department are replicated.

(d) The legislature further finds that just as between the years of 1980 and 1995, the dredge spoils placed upon adjacent publicly and privately owned property in the affected areas, if further disposed, will be of nominal value to the state and that it is in the best interests of the state to allow further disposal without charge.

(2)(a) All dredge spoil or materials removed from the state-owned beds and shores of the Toutle river, Coweeman river, and that portion of the Cowlitz river from two miles above the confluence of the Toutle river to its mouth deposited on adjacent public and private lands prior to January 1, 2009, as a result of dredging the affected rivers for navigation and flood control purposes may be sold, transferred, or otherwise disposed of by owners of the lands without the necessity of any charge by the department and free and clear of any interest of the department.

(b) All dredge spoil or materials removed from the state-owned beds and shores of the Toutle river, Coweeman river, and that portion of the Cowlitz river from two miles above the confluence of the Toutle river to its mouth deposited on adjacent public and private lands after January 1, 2009, but before December 31, 2017, as a result of dredging the affected rivers for navigation and flood control purposes may be sold, transferred, or otherwise disposed of by owners of the lands without the necessity of any charge by the department and free and clear of any interest of the department if the land in question was not used as a source for commercially sold materials prior to January 1, 2009. If the land in question was used as a source for commercially sold materials prior to January 1, 2009, the dredge spoils may be used without the necessity of any charge by the department. However, any sale of the materials would not be exempt from charges by the department consistent with this title.

(3)(a) Prior to selling or otherwise using any materials under this section for commercial purposes, written notification must be provided by the owners of the lands to the department outlining the type and amount of material that is planned to be sold or otherwise used.

(b) The department shall report to the appropriate committees of the legislature each biennium through the end of the 2015-2017 biennium a summary of any notifications received under (a) of this subsection. The report must include a determination of whether any revenue that would otherwise accrue to the state has been diverted by the provisions of this section and a summation of the diverted amount for the previous biennium. The initial report is due by January 2, 2012, with subsequent reports due by January 2nd of each even-numbered year.

NEW SECTION. **Sec. 2.** RCW 79.140.120 is decodified."

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 Senate Bill No. 6070.

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 Senate Bill No. 6070.

The motion by Senator Jacobsen carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6070 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6070, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6070, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; 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, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Regala

SENATE BILL NO. 6070, 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. 6088 with the following amendment: 6088-S AMH CB H3118.1

On page 1, line 13, after "agencies" insert ", as defined in RCW 40.06.010"

On page 2, line 23, after "interagency board" insert "or other interested parties"

On page 2, line 26, after "70.94.531" insert "or developed under the joint comprehensive commute trip reduction plan described in this section"

On page 2, line 27, after "transportation," insert "general administration,"

On page 3, line 15, after "transportation shall" insert "work with applicable state agencies, including institutions of higher education, and shall"

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. 6088.

Senator Jarrett spoke in favor of 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 Substitute Senate Bill No. 6088.

The motion by Senator Jarrett carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6088 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6088, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6088, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 1; Excused, 0.

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

Voting nay: Senators Benton and Hatfield

Absent: Senator Oemig

SUBSTITUTE SENATE BILL NO. 6088, 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. 6095 with the following amendment: 6095-S AMH TR H2941.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 88.16.035 and 2008 c 128 s 2 are each amended to read as follows:

(1) The board of pilotage commissioners shall:

(a) Adopt rules, pursuant to chapter 34.05 RCW, necessary for the enforcement and administration of this chapter;

(b)(i) Issue training licenses and pilot licenses to pilot applicants meeting the qualifications provided for in RCW 88.16.090 and such additional qualifications as may be determined by the board;

(ii) Establish a comprehensive training program to assist in the training and evaluation of pilot applicants before final licensing; and

(iii) Establish additional training requirements, including a program of continuing education developed after consultation with pilot organizations, including those located within the state of Washington, as required to maintain a competent pilotage service;

(c) Maintain a register of pilots, records of pilot accidents, and other history pertinent to pilotage;

(d) Determine from time to time the number of pilots necessary to be licensed in each district of the state to optimize the operation of a safe, fully regulated, efficient, and competent pilotage service in each district;

(e) Annually fix the pilotage tariffs for pilotage services ((~~performed aboard vessels as required by~~)) provided under this chapter: PROVIDED, That the board may fix extra compensation for extra services to vessels in distress, for awaiting vessels, for all vessels in direct transit to or from a Canadian port where Puget Sound pilotage is required for a portion of the voyage, or for being carried to sea on vessels against the will of the pilot, and for such other services as may be determined by the board: PROVIDED FURTHER, That as an element of the Puget Sound pilotage district tariff, the board may consider pilot retirement plan expenses incurred in the prior year in either pilotage district. However, under no circumstances shall the state be obligated to fund or pay for any portion of retirement payments for pilots or retired pilots;

(f) File annually with the governor and the chairs of the transportation committees of the senate and house of representatives a report which includes, but is not limited to, the following: The number, names, ages, pilot license number, training license number, and years of service as a Washington licensed pilot of any person licensed by the board as a Washington state pilot or trainee; the names, employment, and other information of the members of the board; the total number of pilotage assignments by pilotage district, including information concerning the various types and sizes of vessels and the total annual tonnage; the annual earnings or stipends of individual pilots and trainees before and after deduction for expenses of pilot organizations, including extra compensation as a separate category; the annual expenses of private pilot associations, including personnel employed and capital expenditures; the status of pilotage tariffs, extra compensation, and travel; the retirement contributions paid to pilots and the disposition thereof; the number of groundings, marine occurrences, or other incidents which are reported to or investigated by the board, and which are determined to be accidents, as defined by the board, including the vessel name, location of incident, pilot's or trainee's name, and disposition of the case together with information received before the board acted from all persons concerned, including the United States coast guard; the names, qualifications, time scheduled for examinations, and the district of persons desiring to apply for Washington state pilotage licenses; summaries of dispatch records, quarterly reports from pilots, and the bylaws and operating rules of pilotage organizations; the names, sizes in deadweight tons, surcharges, if any, port of call, name of the pilot or trainee, and names and horsepower of tug boats for any and all oil tankers subject to the provisions of RCW 88.16.190 together with the names of any and all vessels for which the United States coast guard requires special handling pursuant to their authority under the Ports and Waterways Safety Act of 1972; the expenses of the board; and any and all other information which the board deems appropriate to include;

(g) Make available information that includes the pilotage act and other statutes of Washington state and the federal government that affect pilotage, including the rules of the board, together with such additional information as may be informative for pilots, agents, owners, operators, and masters;

(h) Appoint advisory committees and employ marine experts as necessary to carry out its duties under this chapter;

(i) Provide for the maintenance of efficient and competent pilotage service on all waters covered by this chapter; and do such other things as are reasonable, necessary, and expedient to insure proper and safe pilotage upon the waters covered by this chapter and facilitate the efficient administration of this chapter.

(2) The board may pay stipends to pilot trainees under subsection (1)(b) of this section."

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. 6095.
Senator Jarrett spoke in favor of 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 Substitute Senate Bill No. 6095.
The motion by Senator Jarrett carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6095 by voice vote.
The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6095, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6095, 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 Benton, Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli
Voting nay: Senators Becker, Carrell, Hewitt, Holmquist, Honeyford, Morton, Pflug and Stevens
SUBSTITUTE SENATE BILL NO. 6095, 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 2:40 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

EVENING SESSION

The Senate was called to order at 5:16 p.m. by President Owen.

MOTION

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

REPORTS OF STANDING COMMITTEES

April 21, 2009
SB 6122 Prime Sponsor, Senator Prentice: Reducing costs of the elections division of the office of the secretary of state. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6122 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Carrell; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Oemig; Parlette; Pflug; Pridemore and Regala.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

April 21, 2009
SB 6129 Prime Sponsor, Senator Prentice: Relating to fiscal matters. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6129 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Carrell; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Oemig; Parlette; Pflug; Pridemore; Regala and Schoesler.

Passed to Committee on Rules for second reading.

April 21, 2009
ESHB 2211 Prime Sponsor, Committee on Transportation: Addressing the authorization, administration, collection, and enforcement of tolls on the state route number 520 corridor. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Berkey; Delvin; Jarrett; Kastama; Kilmer; King and Ranker.

Passed to Committee on Rules for second reading.

April 21, 2009
HB 2359 Prime Sponsor, Representative Cody: Concerning delaying the implementation date for peer mentoring for long-term care workers. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Carrell; Hobbs; Honeyford; Kohl-Welles; McDermott; Oemig; Parlette; Pflug; Pridemore; Regala and Schoesler.

Passed to Committee on Rules for second reading.

April 21, 2009
HB 2360 Prime Sponsor, Representative Darneille: Concerning consolidation of administrative services for AIDS grants in the department of health. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Carrell; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; Oemig; Pridemore; Regala and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Parlette and Pflug.

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 21, 2009

MR. PRESIDENT:
The House concurred in Senate amendment to the following bills and passed the bills as amended by the Senate:
ENGROSSED HOUSE BILL NO. 1385,
SECOND SUBSTITUTE HOUSE BILL NO. 1484,
SECOND SUBSTITUTE HOUSE BILL NO. 2106,
HOUSE BILL NO. 2146,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2289,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 21, 2009

MR. PRESIDENT:
The House has passed the following bills:
SUBSTITUTE HOUSE BILL NO. 2363,
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:
ENGROSSED SUBSTITUTE SENATE BILL NO. 5110,
SENATE BILL NO. 5120,
SUBSTITUTE SENATE BILL NO. 5199,
SUBSTITUTE SENATE BILL NO. 5248,
SUBSTITUTE SENATE BILL NO. 5270,
SUBSTITUTE SENATE BILL NO. 5286,
SUBSTITUTE SENATE BILL NO. 5318,
SECOND SUBSTITUTE SENATE BILL NO. 5346,
SUBSTITUTE SENATE BILL NO. 5401,
SUBSTITUTE SENATE BILL NO. 5501,
SENATE BILL NO. 5547,
SUBSTITUTE SENATE BILL NO. 5719,
SENATE BILL NO. 5720,
SUBSTITUTE SENATE BILL NO. 5724,
SENATE BILL NO. 5731,
SUBSTITUTE SENATE BILL NO. 5738,
ENGROSSED SENATE BILL NO. 5810,
SUBSTITUTE SENATE BILL NO. 5834,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5854,
SUBSTITUTE SENATE BILL NO. 5891,
SUBSTITUTE SENATE BILL NO. 5921,
ENGROSSED SENATE BILL NO. 5925,

MOTION

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

SECOND READING

SENATE BILL NO. 5915, by Senators Prentice and Fairley

Authorizing emergency rule making when the state employment growth forecast is estimated to be less than one percent.

The measure was read the second time.

MOTION

Senator Fairley moved that the following striking amendment by Senator Fairley be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 34.05.350 and 1994 c 249 s 3 are each amended to read as follows:

(1) If an agency for good cause finds:

(a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; ((~~or~~))

(b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule; or

(c) In order to implement the requirements or reductions in appropriations enacted in any budget for fiscal years 2009, 2010, or 2011, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency,

the agency may dispense with those requirements and adopt, amend, or repeal the rule on an emergency basis. The agency's finding and a concise statement of the reasons for its finding shall be incorporated in the order for adoption of the emergency rule or amendment filed with the office of the code reviser under RCW 34.05.380 and with the rules review committee.

(2) An emergency rule adopted under this section takes effect upon filing with the code reviser, unless a later date is specified in the order of adoption, and may not remain in effect for longer than one hundred twenty days after filing. Identical or substantially similar emergency rules may not be adopted in sequence unless conditions have changed or the agency has filed notice of its intent to adopt the rule as a permanent rule, and is actively undertaking the appropriate procedures to adopt the rule as a permanent rule. This section does not relieve any agency from compliance with any law requiring that its permanent rules be approved by designated persons or bodies before they become effective.

(3) Within seven days after the rule is adopted, any person may petition the governor requesting the immediate repeal of a rule adopted on an emergency basis by any department listed in RCW 43.17.010. Within seven days after submission of the petition, the governor shall either deny the petition in writing, stating his or her reasons for the denial, or order the immediate repeal of the rule. In ruling on the petition, the governor shall consider only whether the conditions in subsection (1) of this section were met such that adoption of the rule on an emergency basis was necessary. If the governor orders the repeal of the emergency rule, any sanction imposed based on that rule is void. This subsection shall not be construed to prohibit adoption of any rule as a permanent rule.

(((~~(4) In adopting an emergency rule, the agency shall comply with section 4 of this act or provide a written explanation for its failure to do so.~~)))

NEW SECTION. **Sec. 2.** 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."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Fairley to Senate Bill No. 5915.

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

MOTION

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

On page 1, line 1 of the title, after "when;" strike the remainder of the title and insert "necessary to implement budget appropriations and reductions; amending RCW 34.05.350; and declaring an emergency."

MOTION

On motion of Senator Fairley, the rules were suspended, Engrossed Senate Bill No. 5915 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fairley spoke in favor of passage of the bill.

MOTION

On motion of Senator Hobbs, Senator Hatfield was excused.

MOTION

On motion of Senator Marr, Senator Brown was excused.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5915.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5915 and the bill passed the Senate by the following vote: Yeas, 36; Nays, 11; Absent, 0; Excused, 2.

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

Voting nay: Senators Benton, Carrell, Delvin, Holmquist, Honeyford, King, McCaslin, Morton, Roach, Stevens and Swecker

Excused: Senators Brown and Hatfield

ENGROSSED SENATE BILL NO. 5915, 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. 5557, by Senator Pridemore

Adopting the recommendations of the citizen commission for performance measurement of tax preferences.

MOTION

On motion of Senator Pridemore, Substitute Senate Bill No. 5557 was substituted for Senate Bill No. 5557 and the substitute bill was placed on the second reading and read the second time.

MOTION

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

On page 1, line 2 of the title, after "preferences", strike all material through "exemptions" on line 3 and insert "concerning calculation of the business and occupation tax deduction for radio and television broadcasting, reporting data on the community benefits of nonprofit nursing homes and hospitals, and a property tax exemption for airports belonging to municipalities of adjoining states"

Senators Schoesler and Pridemore spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Schoesler on page 1, line 2 to Substitute Senate Bill No. 5557.

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

MOTION

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

On page 5, beginning on line 19, strike "consistent reporting standards for"

On page 6, line 10, after "84.36.040(1)" strike "(c) and (d)" and insert "(d) and (e)"

On page 6, line 13, after "year." insert "Community benefits include, but are not limited to: Community health improvement services; health professions education; subsidized health services; research; financial and in-kind contributions; community-building activities; community benefit operations; and charity care, including unreimbursed costs of indigent government sponsored programs and medicaid shortfall."

On page 6, line 28, after "removed." insert "However, the department must allow a reasonable extension of time for filing upon receipt of a written request on or before the required filing date and for good cause shown therein."

Senator Pridemore spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Pridemore on page 5, line 19 to Substitute Senate Bill No. 5557.

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

MOTION

On motion of Senator Pridemore, the rules were suspended, Engrossed Substitute Senate Bill No. 5557 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5557.

ROLL CALL

The Secretary called the roll on the final passage of

Engrossed Substitute Senate Bill No. 5557 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 4; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, 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, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Carrell, McCaslin, Morton and Sheldon

Excused: Senators Brown and Hatfield

ENGROSSED SUBSTITUTE SENATE BILL NO. 5557, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Honeyford as to the application of Initiative Number 960 to House Bill 2075, the President finds and rules as follows:

While the bill does many things, the subject matter at issue is the tax treatment of what are commonly known as 'digital goods.' The President believes it is appropriate to begin by taking note of the history of this matter. It is fair to say that the application of certain taxes to digital goods has been unclear over the years, largely because of the effects that the ever-changing technology continues to have on the marketplace. In 2007, as part of the adopted budget, the Legislature mandated, and I quote, 'a study of the taxation of electronically delivered products'—that is, digital goods. In late 2008, that study was completed and submitted, and it contained numerous findings and recommendations. It is fair to characterize the bill before us as implementing some of those recommendations and setting forth definitions and parameters relating to digital goods taxation.

The President does not necessarily agree, as some have argued, that the super-majority provisions of I-960 can be avoided simply by offsetting or depleting the same account or fund into which new revenue is to be deposited. Put another way, the President believes it is appropriate to look at both the individual provisions within a bill as well as the total effect of the bill as a whole. The President would therefore caution the body to be mindful of this with respect to bills which attempt to balance out one set of revenue increases against another set of revenue decreases or exemptions which act to offset one another, because the President also finds that the initiative's language on this matter clearly unclear; however, he is bound to implement its provisions just as with any other law.

In this particular case, this bill contains provisions that clearly raise revenue and others that clearly lower expected revenue. In sum, however, the President believes that this bill is most properly viewed as a clarification of the law with respect to the taxation of digital goods. Whatever the intent and limitations of I-960, the President believes the Legislature must, as a branch of government charged with law-making authority, retain its inherent powers and duties to clarify its own mandates and its prior policies. This power is not unlimited, of course, and there may be situations where legislative action may go beyond clarification and come to be a tax increase in its own right, but such is not the situation presented today. A genuine dispute existed as to the application of taxes to digital goods; the Legislature chose to study the matter for the purpose of clarifying the issue, and, based on that study, make the reasonable definitions and clarifications embodied in this bill.

For these reasons, the President believes this measure will take only a simple majority vote on final passage."

RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Zarelli as to the application of Initiative Number 960 to House Bill 1088, the President finds and rules as follows:

The President believes it is appropriate to begin by taking note of the history of this matter. The RCW being amended was last acted upon by the Legislature in 1957. Recently, however, a trial court ruled that the Department of Revenue's past interpretation of this law was erroneous, holding that the law did not include all 'recurring charges billed to consumers' within the definition of 'gross revenue' for purposes of collecting public utility district privilege taxes. This bill is sought by the Department as a clarification of the law, and it is fair to say that this measure would restore the definition of "gross revenue" to the Department's long-standing interpretation of this term.

The President agrees that this bill could be deemed a clarification, and would respectfully take issue with the court's interpretation of the law as it has existed since 1957. Nonetheless, under long-standing comity and separation of powers principles, the President is obligated to defer to another branch of government acting in its duly-constituted role in interpreting law. As recently as 2006, for example, the President took note of a court decision which declared Initiative Number 872 unconstitutional. In that ruling, the President acknowledged that a trial court's ruling may or may not prove to be the final word on a legal matter, and that subsequent appeals or other legal actions could dramatically alter the earlier decision. In this sense, the action could be viewed as unsettled or uncertain, at least until another court has acted. In resolving this problem, the President noted then—as he does now—that, 'It is precisely because of this uncertainty, however, that the President cannot engage in speculative analysis, but must instead confine himself to the state of the law as it exists at the time of his ruling.' Such is also the case with the matter before the body today, as the President must again take note of a proper court interpretation affecting the measure before us.

Applying this same precedent to the matter before us, it may be that a later court will revisit or change the trial court's decision, but the President notes that this decision is, presently, the law of the case and binding on the Department, at least with respect to those litigants. The Department quite reasonably is seeking this legislation to clarify that its interpretation was correct all along. This may well be a clarification of the law, but, viewed with the court's decision, it is one which amounts to a state action which raises revenue considered a tax under I-960—a tax which could not otherwise be collected without this bill. If this measure is not passed, the litigants—and perhaps other groups similarly situated—will not pay this PUD privilege tax on as broad of a definition of gross revenue, at least until a higher court changes the trial court's ruling. Such subsequent court action is speculative. By contrast, the proposed re-imposition of this tax by legislative action is not speculative, it is in the plain language of the measure before the body.

For these reasons, the President believes this is a measure which triggers the super-majority provisions of I-960. This measure will take a two-thirds vote on final passage."

MOTION

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

PARLIAMENTARY INQUIRY

Senator Eide: "Is the Engrossed Substitute House Bill No. 2075 currently on third reading?

REPLY BY THE PRESIDENT

President Owen: "Yes, it is."

The Senate resumed consideration of Engrossed Substitute House Bill No. 2075 which had been deferred on the previous day.

THIRD READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2075, by House Committee on Finance (originally sponsored by Representative Hunter).

Concerning the excise taxation of certain products and services provided or furnished electronically.

The bill was read on Third Reading.

Senator Tom spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2075.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2075 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 20; Absent, 0; Excused, 1.

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

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

Excused: Senator Hatfield

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2075, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1597, by House Committee on Finance (originally sponsored by Representatives Springer and Hunter)

Concerning the administration of state and local tax programs.

The measure was read the second time.

MOTION

Senator Zarelli moved that the following amendment by Senators Zarelli and Murray be adopted.

On page 23, at the beginning of line 26, strike "(((~~(10)~~))) (8) This section expires January 1, 2015." and insert "(((~~(10) This section expires January 1, 2015.~~)))"

Senators Zarelli and Murray spoke in favor of adoption of the amendment.

Senator Tom spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Zarelli and Murray on page 23, line 26 to Substitute House Bill No. 1597.

The motion by Senator Zarelli failed and the amendment was not adopted by a rising vote.

MOTION

Senator Tom moved that the following amendment by Senators Tom and Pridemore be adopted.

On page 109, after line 10, insert the following:

"NEW SECTION. **Sec. 318.** The legislature reaffirms its intent that the statutes authorizing the local taxation of brokered natural gas and manufactured gas as provided by chapter 384, Laws of 1989 and RCW 82.12.010(5) result in the fair and equitable taxation of all natural and manufactured gas users, from large industrial consumers to small residential users, and it is the legislature's intent that the taxation of such gas by local jurisdictions be at the place of consumption.

**Sec. 319.** RCW 82.12.010 and 2006 c 301 s 3 are each amended to read as follows:

For the purposes of this chapter:

(1) "Purchase price" means the same as sales price as defined in RCW 82.08.010.

(2)(a) "Value of the article used" shall be the purchase price for the article of tangible personal property, the use of which is taxable under this chapter. The term also includes, in addition to the purchase price, the amount of any tariff or duty paid with respect to the importation of the article used. In case the article used is acquired by lease or by gift or is extracted, produced, or manufactured by the person using the same or is sold under conditions wherein the purchase price does not represent the true value thereof, the value of the article used shall be determined as nearly as possible according to the retail selling price at place of use of similar products of like quality and character under such rules as the department may prescribe.

(b) In case the articles used are acquired by bailment, the value of the use of the articles so used shall be in an amount representing a reasonable rental for the use of the articles so bailed, determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character under such rules as the department of revenue may prescribe. In case any such articles of tangible personal property are used in respect to the construction, repairing, decorating, or improving of, and which become or are to become an ingredient or component of, new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing or attaching of any such articles therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, then the value of the use of such articles so used shall be determined according to the retail selling price of such articles, or in the absence of such a selling price, as nearly as possible according to the retail selling price at place of use of similar products of like quality and character or, in the absence of either of these selling price measures, such value may be determined upon a

cost basis, in any event under such rules as the department of revenue may prescribe.

(c) In the case of articles owned by a user engaged in business outside the state which are brought into the state for no more than one hundred eighty days in any period of three hundred sixty-five consecutive days and which are temporarily used for business purposes by the person in this state, the value of the article used shall be an amount representing a reasonable rental for the use of the articles, unless the person has paid tax under this chapter or chapter 82.08 RCW upon the full value of the article used, as defined in (a) of this subsection.

(d) In the case of articles manufactured or produced by the user and used in the manufacture or production of products sold or to be sold to the department of defense of the United States, the value of the articles used shall be determined according to the value of the ingredients of such articles.

(e) In the case of an article manufactured or produced for purposes of serving as a prototype for the development of a new or improved product, the value of the article used shall be determined by: (i) The retail selling price of such new or improved product when first offered for sale; or (ii) the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale.

(f) In the case of an article purchased with a direct pay permit under RCW 82.32.087, the value of the article used shall be determined by the purchase price of such article if, but for the use of the direct pay permit, the transaction would have been subject to sales tax;

(3) "Value of the service used" means the purchase price for the service, the use of which is taxable under this chapter. If the service is received by gift or under conditions wherein the purchase price does not represent the true value thereof, the value of the service used shall be determined as nearly as possible according to the retail selling price at place of use of similar services of like quality and character under rules the department may prescribe;

(4) "Value of the extended warranty used" means the purchase price for the extended warranty, the use of which is taxable under this chapter. If the extended warranty is received by gift or under conditions wherein the purchase price does not represent the true value of the extended warranty, the value of the extended warranty used shall be determined as nearly as possible according to the retail selling price at place of use of similar extended warranties of like quality and character under rules the department may prescribe;

(5) "Use," "used," "using," or "put to use" shall have their ordinary meaning, and shall mean:

(a) With respect to tangible personal property, <u>except for natural gas and manufactured gas,</u> the first act within this state by which the taxpayer takes or assumes dominion or control over the article of tangible personal property (as a consumer), and include installation, storage, withdrawal from storage, distribution, or any other act preparatory to subsequent actual use or consumption within this state;

(b) With respect to a service defined in RCW 82.04.050(2)(a), the first act within this state after the service has been performed by which the taxpayer takes or assumes dominion or control over the article of tangible personal property upon which the service was performed (as a consumer), and includes installation, storage, withdrawal from storage, distribution, or any other act preparatory to subsequent actual use or consumption of the article within this state; ((~~and~~))

(c) With respect to an extended warranty, the first act within this state after the extended warranty has been acquired by which the taxpayer takes or assumes dominion or control over the article of tangible personal property to which the extended warranty applies, and includes installation, storage, withdrawal from storage, distribution, or any other act preparatory to subsequent actual use or consumption of the article within this state; <u>and</u>

<u>(d) With respect to natural gas or manufactured gas, the use of which is taxable under RCW 82.12.022, including gas that is also taxable under the authority of RCW 82.14.230, the first act within this state by which the taxpayer consumes the gas by burning the gas or storing the gas in the taxpayer's own facilities for later consumption by the taxpayer;</u>

(6) "Taxpayer" and "purchaser" include all persons included within the meaning of the word "buyer" and the word "consumer" as defined in chapters 82.04 and 82.08 RCW;

(7)(a)(i) Except as provided in (a)(ii) of this subsection (7), "retailer" means every seller as defined in RCW 82.08.010 and every person engaged in the business of selling tangible personal property at retail and every person required to collect from purchasers the tax imposed under this chapter.

(ii) "Retailer" does not include a professional employer organization when a covered employee coemployed with the client under the terms of a professional employer agreement engages in activities that constitute a sale of tangible personal property, extended warranty, or a sale of any service defined as a retail sale in RCW 82.04.050 (2)(a) or (3)(a) that is subject to the tax imposed by this chapter. In such cases, the client, and not the professional employer organization, is deemed to be the retailer and is responsible for collecting and remitting the tax imposed by this chapter.

(b) For the purposes of (a) of this subsection, the terms "client," "covered employee," "professional employer agreement," and "professional employer organization" have the same meanings as in RCW 82.04.540;

(8) "Extended warranty" has the same meaning as in RCW 82.04.050(7);

(9) The meaning ascribed to words and phrases in chapters 82.04 and 82.08 RCW, insofar as applicable, shall have full force and effect with respect to taxes imposed under the provisions of this chapter. "Consumer," in addition to the meaning ascribed to it in chapters 82.04 and 82.08 RCW insofar as applicable, shall also mean any person who distributes or displays, or causes to be distributed or displayed, any article of tangible personal property, except newspapers, the primary purpose of which is to promote the sale of products or services. With respect to property distributed to persons within this state by a consumer as defined in this subsection (9), the use of the property shall be deemed to be by such consumer.

**Sec. 320.** RCW 82.14.230 and 1989 c 384 s 2 are each amended to read as follows:

(1) The governing body of any city, while not required by legislative mandate to do so, may, by resolution or ordinance for the purposes authorized by this chapter, fix and impose on every person a use tax for the privilege of using natural gas or manufactured gas in the city as a consumer.

(2) The tax shall be imposed in an amount equal to the value of the article used by the taxpayer multiplied by the rate in effect for the tax on natural gas businesses under RCW 35.21.870 in the city in which the article is used. The "value of the article used," does not include any amounts that are paid for the hire or use of a natural gas business in transporting the gas subject to tax under this subsection if those amounts are subject to tax under RCW 35.21.870.

(3) The tax imposed under this section shall not apply to the use of natural or manufactured gas if the person who sold the

gas to the consumer has paid a tax under RCW 35.21.870 with respect to the gas for which exemption is sought under this subsection.

(4) There shall be a credit against the tax levied under this section in an amount equal to any tax paid by:

(a) The person who sold the gas to the consumer when that tax is a gross receipts tax similar to that imposed pursuant to RCW 35.21.870 by another ((~~state~~)) municipality or other unit of local government with respect to the gas for which a credit is sought under this subsection; or

(b) The person consuming the gas upon which a use tax similar to the tax imposed by this section was paid to another ((~~state~~)) municipality or other unit of local government with respect to the gas for which a credit is sought under this subsection.

(5) The use tax hereby imposed shall be paid by the consumer. The administration and collection of the tax hereby imposed shall be pursuant to RCW 82.14.050."

On page 1, line 18 of the title, before "29A.36.210" insert "82.12.010, 82.14.230,"

Senator Tom spoke in favor of adoption of the amendment.

POINT OF ORDER

Senator King: "Mr. President, I believe that the amendment offered is beyond the scope and object of the underlying bill and I have some arguments to offer on this Mr. President. Thank you Mr. President. Substitute House Bill No. 1597 is primarily a technical cleanup bill, making technical updates to the property, excise and the state tax laws. It requires uniformity in the paperwork that is required for tax incentives as well as making changes in clarifications regarding whom the Department of Revenue may share information with. The bill specifically states in the title that it does not impact tax collections. The amendment is an attempt to hang House Bill No. 1422 on this bill. the amendment responds to a recent division to court of appeals decision by allowing the jurisdiction where broker natural gases burned or stored to impose a use tax. The amendment deals, primarily deals with local taxes. It also includes the intent section from Senate Bill No. 6096 regarding bunker fuel. The underlying bill makes no substantive changes to tax provisions while the amendment imposes a use tax on broker natural gas. For these reasons I believe the amendment offered is outside the scope and object of the underlying bill and I respectfully request a ruling on this matter. Thank you Mr. President."

POINT OF ORDER

Senator Tom: "Thank you Mr. President. The other part of this amendment clarifies the location where local taxes due for broker natural gas Broker natural gas is a deregulated gas directly purchased by users. Many cities impose their tax on this gas when it is used within their cities. These sections of the amendment deal only with the location of where the tax on the broker natural gas is due for the purposes of the local tax. A recent court of appeals decision has held that the taxes due when the owner takes control of the gas rather than the place where the gas is consumed. The Washington State Supreme Court has accepted review of this decision. This amendment makes clear for the future that the taxes due at the location where the natural gas is consumed. These parts of the amendment only impact local taxes. There is not state impact."

MOTION

Senator Tom moved that the following amendment by Senator Tom and others be adopted.

On page 133, after line 35, insert the following:

"NEW SECTION. **Sec. 502.** (1) Through sections 503 and 504 of this act the legislature intends to address the taxation of persons manufacturing and/or selling bunker fuel. Bunker fuel is fuel intended for consumption outside the waters of the United States by vessels in foreign commerce. Although the state has historically collected tax from bunker fuel manufacturers, recently questions have arisen whether the manufacture of bunker fuel is subject to business and occupation tax under RCW 82.04.240. Pursuant to sections 503 and 504 of this act, the activity is taxable under RCW 82.04.240.

(2) The legislature finds that at the time the deduction allowed under RCW 82.04.433 was enacted in 1985, it was intended to apply only to the wholesaling or retailing of bunker fuel. In 1987 the legislature enacted the multiple activities tax credit in RCW 82.04.440. Enactment of the multiple activities tax credit resulted in changed tax liability for certain taxpayers. In particular, some taxpayers that engaged in activities that had been exempt under the prior multiple activities exemption became subject to tax on manufacturing activities upon enactment of the multiple activities tax credit in its place. The manufacturing of bunker fuel is one such activity.

**Sec. 503.** RCW 82.04.433 and 1985 c 471 s 16 are each amended to read as follows:

(1) In computing tax there may be deducted from the measure of tax imposed under RCW 82.04.250 and 82.04.270 amounts derived from sales of fuel for consumption outside the territorial waters of the United States, by vessels used primarily in foreign commerce.

(2) ((~~Nothing in this section shall be construed to imply that amounts which may be deducted under this section were taxable under Title 82 RCW prior to the enactment of this section.~~)) The deduction in subsection (1) of this section does not apply with respect to the tax imposed under RCW 82.04.240, whether the value of the fuel under that tax is measured by the gross proceeds derived from the sale thereof or otherwise under RCW 82.04.450.

NEW SECTION. **Sec. 504.** The department of revenue must take any actions that are necessary to ensure that its rules and other interpretive statements are consistent with sections 502 and 503 of this act."

Renumber the remaining sections consecutively.

On page 134, after line 23, insert the following:

"NEW SECTION. **Sec. 505.** Sections 502 through 504 of this act apply both prospectively and retroactively.

NEW SECTION. **Sec. 506.** Sections 502 through 504 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately."

Renumber the remaining section consecutively.

On page 1, line 21 of the title, after "87.03.265," strike "and 87.03.270" and insert "87.03.270, and 82.04.433"

On page 2, line 8 of the title, after "date;" strike "and providing expiration dates" and insert "providing expiration dates; and declaring an emergency"

Senator Tom spoke in favor of adoption of the amendment.

POINT OF ORDER

Senator Brandland: "Thank you Mr. President, I believe that the amendment offered is beyond the scope and object of the underlying bill and I have some arguments to offer on this Mr. President. Substitute House Bill No. 1597 is primarily a technical clean up bill making technical updates to property excise and state tax laws that requires uniformity in the paperwork that is required for tax incentives as well as making changes and clarifications regarding whom the Department of Revenue may share information with. The amendment is an attempt to hang Senate Bill No. 6096 on this bill, while the bill is a technical cleanup bill that doesn't affect tax collection. The amendment is far from technical. It is substantive and addresses a case that is currently in litigation. The bill specifically states in the title that it does not affect tax collections. The amendment provides that the manufacturing of bunker fuel is taxable under the B&O tax and makes this change retroactive. This amendment would change the state of the law by allowing the imposition and collection of that tax. For these reasons I believe this amendment offered is outside the scope and object of the underlying bill and I respectfully request a ruling on this matter."

POINT OF ORDER

Senator Tom: "Thank you Mr. President. You're as good a reader as I am, we will bring this to the bar."

MOTION

On motion of Senator Eide, further consideration of Substitute House Bill No. 1597 was deferred and the bill held its place on the second reading calendar.

SECOND READING

SENATE BILL NO. 6002, by Senators Keiser and Pridemore

Abolishing the Washington state quality forum.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, Senate Bill No. 6002 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Senate Bill No. 6002.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6002 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 2; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Hewitt, 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, Tom and Zarelli

Absent: Senators Hobbs and Swecker

Excused: Senator Hatfield

SENATE BILL NO. 6002, 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. 6065, by Senators Fairley and Shin

Addressing the structure and authority of the liquor control board.

The measure was read the second time.

MOTION

On motion of Senator Fairley, the rules were suspended, Senate Bill No. 6065 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fairley spoke in favor of passage of the bill.

Senators Sheldon and King spoke against passage of the bill.

MOTION

On motion of Senator Holmquist, Senator Swecker was excused.

MOTION

On motion of Senator Marr, Senators Hobbs and Ranker were excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6065.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6065 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 18; Absent, 0; Excused, 3.

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

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, Kohl-Welles, McCaslin, Morton, Parlette, Pflug, Schoesler, Sheldon, Stevens and Zarelli

Excused: Senators Hatfield, Ranker and Swecker

SENATE BILL NO. 6065, 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. 6126, by Senators Prentice and Tom

Concerning boxing, martial arts, and wrestling events.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, Senate Bill No. 6126 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. 6126.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6126 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 6; Absent, 0; Excused, 3.

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

Voting nay: Senators Benton, Carrell, Hewitt, Holmquist, Kilmer and Stevens

Excused: Senators Hatfield, Ranker and Swecker

SENATE BILL NO. 6126, 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 14, 2009

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 5285 with the following amendment: 5285-S AMH JUDI TANG 052

Strike everything after the enacting clause and insert the following:

"**Sec. 1** RCW 26.44.030 and 2008 c 211 s 5 are each amended to read as follows:

(1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, employee of the department of early learning, licensed or certified child care providers or their employees, employee of the department, juvenile probation officer, placement and liaison specialist, responsible living skills program staff, HOPE center staff, or state family and children's ombudsman or any volunteer in the ombudsman's office has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) When any person, in his or her official supervisory capacity with a nonprofit or for-profit organization, has reasonable cause to believe that a child has suffered abuse or neglect caused by a person over whom he or she regularly exercises supervisory authority, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency, provided that the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children or regularly has unsupervised access to a child or children as part of the employment, contract, or voluntary service. No one shall be required to report under this section when he or she obtains the information solely as a result of a privileged communication as provided in RCW 5.60.060.

Nothing in this subsection (1)(b) shall limit a person's duty to report under (a) of this subsection.

For the purposes of this subsection, the following definitions apply:

(i) "Official supervisory capacity" means a position, status, or role created, recognized, or designated by any nonprofit or for-profit organization, either for financial gain or without financial gain, whose scope includes, but is not limited to, overseeing, directing, or managing another person who is employed by, contracted by, or volunteers with the nonprofit or for-profit organization.

(ii) "Regularly exercises supervisory authority" means to act in his or her official supervisory capacity on an ongoing or continuing basis with regards to a particular person.

(c) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment, any department of corrections personnel has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(d) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(e) The reporting requirement also applies to guardians ad litem, including court appointed special advocates, appointed under Titles 11, 13, and 26 RCW, who in the course of their representation of children in these actions have reasonable cause to believe a child has been abused or neglected.

(f) The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child has suffered abuse or neglect. The report must include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section does apply.

(3) Any other person who has reasonable cause to believe that a child has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child. Information considered privileged by statute and not directly related to reports required by this section must not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving a report of alleged abuse or neglect, the department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which:

(a) The department believes there is a serious threat of substantial harm to the child;

(b) The report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or

(c) The department has a prior founded report of abuse or neglect with regard to a member of the household that is within three years of receipt of the referral.

(11)(a) For reports of alleged abuse or neglect that are accepted for investigation by the department, the investigation shall be conducted within time frames established by the department in rule. In no case shall the investigation extend longer than ninety days from the date the report is received, unless the investigation is being conducted under a written protocol pursuant to RCW 26.44.180 and a law enforcement agency or prosecuting attorney has determined that a longer investigation period is necessary. At the completion of the investigation, the department shall make a finding that the report of child abuse or neglect is founded or unfounded.

(b) If a court in a civil or criminal proceeding, considering the same facts or circumstances as are contained in the report being investigated by the department, makes a judicial finding by a preponderance of the evidence or higher that the subject of the pending investigation has abused or neglected the child, the department shall adopt the finding in its investigation.

(12) In conducting an investigation of alleged abuse or neglect, the department or law enforcement agency:

(a) May interview children. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. Parental notification of the interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation; and

(b) Shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(13) If a report of alleged abuse or neglect is founded and constitutes the third founded report received by the department within the last twelve months involving the same child or family, the department shall promptly notify the office of the family and children's ombudsman of the contents of the report. The department shall also notify the ombudsman of the disposition of the report.

(14) In investigating and responding to allegations of child abuse and neglect, the department may conduct background checks as authorized by state and federal law.

(15) The department shall maintain investigation records and conduct timely and periodic reviews of all founded cases of

abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(16) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

(17) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

(18) Upon receiving a report of alleged abuse or neglect involving a child under the court's jurisdiction under chapter 13.34 RCW, the department shall promptly notify the child's guardian ad litem of the report's contents. The department shall also notify the guardian ad litem of the disposition of the report. For purposes of this subsection, "guardian ad litem" has the meaning provided in RCW 13.34.030.

**Sec. 2** RCW 13.34.100 and 2000 c 124 s 2 are each amended to read as follows:

(1) The court shall appoint a guardian ad litem for a child who is the subject of an action under this chapter, unless a court for good cause finds the appointment unnecessary. The requirement of a guardian ad litem may be deemed satisfied if the child is represented by independent counsel in the proceedings. The court shall attempt to match a child with special needs with a guardian ad litem who has specific training or education related to the child's individual needs.

(2) If the court does not have available to it a guardian ad litem program with a sufficient number of volunteers, the court may appoint a suitable person to act as guardian ad litem for the child under this chapter. Another party to the proceeding or the party's employee or representative shall not be so appointed.

(3) Each guardian ad litem program shall maintain a background information record for each guardian ad litem in the program. The background ((~~file~~)) information record shall include, but is not limited to, the following information:

(a) Level of formal education;

(b) General training related to the guardian((~~'s~~)) ad litem's duties;

(c) Specific training related to issues potentially faced by children in the dependency system;

(d) Specific training or education related to child disability or developmental issues;

(e) Number of years' experience as a guardian ad litem;

(((~~(d)~~))) (f) Number of appointments as a guardian ad litem and the county or counties of appointment;

(((~~(e)~~))) (g) The names of any counties in which the person was removed from a guardian ad litem registry pursuant to a grievance action, and the name of the court and the cause number of any case in which the court has removed the person for cause; ((~~and~~

~~(f)~~))) (h) Founded allegations of abuse or neglect as defined in RCW 26.44.020;

(i) The results of an examination that shall consist of a background check as allowed through the Washington state criminal records privacy act under RCW 10.97.050 and the Washington state patrol criminal identification system under RCW 43.43.832 through 43.43.834. This background check shall be done through the Washington state patrol criminal identification section; and

(j) Criminal history, as defined in RCW 9.94A.030, for the period covering ten years prior to the appointment.

The background information ((~~report~~)) record shall be updated annually. As a condition of appointment, the guardian ad litem's background information record shall be made available to the court. If the appointed guardian ad litem is not a member of a guardian ad litem program ((~~the~~)) a suitable person appointed by the court to act as guardian ad litem shall provide the background information record to the court.

Upon appointment, the guardian ad litem, or guardian ad litem program, shall provide the parties or their attorneys with a ((~~statement containing: His or her training relating to the duties as a guardian ad litem; the name of any counties in which the person was removed from a guardian ad litem registry pursuant to a grievance action, and the name of the court and the cause number of any case in which the court has removed the person for cause; and his or her criminal history as defined in RCW 9.94A.030 for the period covering ten years prior to the appointment~~)) copy of the background information record. The portion of the background information record containing the results of the criminal background check and the criminal history shall not be disclosed to the parties or their attorneys. The background ((~~statement~~)) information record shall not include identifying information that may be used to harm a guardian ad litem, such as home addresses and home telephone numbers, and for volunteer guardians ad litem the court may allow the use of maiden names or pseudonyms as necessary for their safety.

(4) The appointment of the guardian ad litem shall remain in effect until the court discharges the appointment or no longer has jurisdiction, whichever comes first. The guardian ad litem may also be discharged upon entry of an order of guardianship.

(5) A guardian ad litem through counsel, or as otherwise authorized by the court, shall have the right to present evidence, examine and cross-examine witnesses, and to be present at all hearings. A guardian ad litem shall receive copies of all pleadings and other documents filed or submitted to the court, and notice of all hearings according to court rules. The guardian ad litem shall receive all notice contemplated for a parent or other party in all proceedings under this chapter.

(6) If the child requests legal counsel and is age twelve or older, or if the guardian ad litem or the court determines that the child needs to be independently represented by counsel, the court may appoint an attorney to represent the child's position.

(7) For the purposes of child abuse prevention and treatment act (42 U.S.C. Secs. 5101 et seq.) grants to this state under P.L. 93-247, or any related state or federal legislation, a person appointed pursuant to RCW 13.34.100 shall be deemed a guardian ad litem to represent the best interests of the minor in proceedings before the court.

(8) When a court-appointed special advocate or volunteer guardian ad litem is requested on a case, the program shall give the court the name of the person it recommends ((~~and the appointment shall be effective immediately~~)). The program shall attempt to match a child with special needs with a guardian ad litem who has specific training or education related to the child's individual needs. The court shall immediately appoint the person recommended by the program.

(9) If a party in a case reasonably believes the court-appointed special advocate or volunteer guardian ad litem is inappropriate or unqualified, the party may request a review of the appointment by the program. The program must complete the review within five judicial days and remove any appointee for good cause. If the party seeking the review is not satisfied with the outcome of the review, the party may file a motion with the court for the removal of the court-appointed special advocate

or volunteer guardian ad litem on the grounds the advocate or volunteer is inappropriate or unqualified.

**Sec. 3** RCW 26.12.175 and 2000 c 124 s 6 are each amended to read as follows:

(1)(a) The court may appoint a guardian ad litem to represent the interests of a minor or dependent child when the court believes the appointment of a guardian ad litem is necessary to protect the best interests of the child in any proceeding under this chapter. The court may appoint a guardian ad litem from the court-appointed special advocate program, if that program exists in the county. The court shall attempt to match a child with special needs with a guardian ad litem who has specific training or education related to the child's individual needs. The family court services professionals may also make a recommendation to the court regarding whether a guardian ad litem should be appointed for the child. ((~~The court may appoint a guardian ad litem from the court-appointed special advocate program, if that program exists in the county.~~))

(b) ((~~Unless otherwise ordered,~~)) The guardian ad litem's role is to investigate and report factual information regarding the issues ordered to be reported or investigated to the court ((~~concerning parenting arrangements for the child, and to represent the child's best interests~~)). The guardian ad litem shall always represent the best interests of the child. Guardians ad litem and investigators under this title may make recommendations based upon ((~~an independent investigation regarding the best interests of the child~~)) his or her investigation, which the court may consider and weigh in conjunction with the recommendations of all of the parties. If a child expresses a preference regarding the parenting plan, the guardian ad litem shall report the preferences to the court, together with the facts relative to whether any preferences are being expressed voluntarily and the degree of the child's understanding. The court may require the guardian ad litem to provide periodic reports to the parties regarding the status of his or her investigation. The guardian ad litem shall file his or her report at least sixty days prior to trial.

(c) The parties to the proceeding may file with the court written responses to any report filed by the guardian ad litem or investigator. The court shall consider any written responses to a report filed by the guardian ad litem or investigator, including any factual information or recommendations provided in the report.

(d) The court shall enter an order for costs, fees, and disbursements to cover the costs of the guardian ad litem. The court may order either or both parents to pay for the costs of the guardian ad litem, according to their ability to pay. If both parents are indigent, the county shall bear the cost of the guardian, subject to appropriation for guardians' ad litem services by the county legislative authority. Guardians ad litem who are not volunteers shall provide the parties with an itemized accounting of their time and billing for services each month.

(2)(a) If the guardian ad litem appointed is from the county court- appointed special advocate program, the program shall supervise any guardian ad litem assigned to the case. The court-appointed special advocate program shall be entitled to notice of all proceedings in the case.

(b) The legislative authority of each county may authorize creation of a court-appointed special advocate program. The county legislative authority may adopt rules of eligibility for court-appointed special advocate program services that are not inconsistent with this section.

(3) Each guardian ad litem program for compensated guardians ad litem and each court-appointed special advocate program shall maintain a background information record for each guardian ad litem in the program. The background ((~~file~~)) information record shall include, but is not limited to, the following information:

(a) Level of formal education;

(b) General training related to the guardian((~~'s~~)) ad litem's duties;

(c) Specific training related to issues potentially faced by children in dissolution, custody, paternity, and other family law proceedings;

(d) Specific training or education related to child disability or developmental issues;

(e) Number of years' experience as a guardian ad litem;

(((~~d~~))) (f) Number of appointments as a guardian ad litem and county or counties of appointment;

(((~~e~~))) (g) The names of any counties in which the person was removed from a guardian ad litem registry pursuant to a grievance action, and the name of the court and the cause number of any case in which the court has removed the person for cause; ((~~and~~

~~(f)~~)) (h) Founded allegations of abuse or neglect as defined in RCW 26.44.020;

(i) The results of an examination that shall consist of a background check as allowed through the Washington state criminal records privacy act under RCW 10.97.050 and the Washington state patrol criminal identification system under RCW 43.43.832 through 43.43.834. This background check shall be done through the Washington state patrol criminal identification section; and

(j) Criminal history, as defined in RCW 9.94A.030, for the period covering ten years prior to the appointment.

The background information ((~~report~~)) record shall be updated annually. As a condition of appointment, the guardian ad litem's background information record shall be made available to the court. If the appointed guardian ad litem is not a member of a guardian ad litem program the person appointed as guardian ad litem shall provide the background information record to the court.

Upon appointment, the guardian ad litem, court-appointed special advocate program or guardian ad litem program, shall provide the parties or their attorneys with a ((~~statement containing: His or her training relating to the duties as a guardian ad litem; the name of any counties in which the person was removed from a guardian ad litem registry pursuant to a grievance action, and the name of the court and the cause number of any case in which the court has removed the person for cause; and his or her criminal history as defined in RCW 9.94A.030 for the period covering ten years prior to the appointment~~)) copy of the background information record. The portion of the background information record containing the results of the criminal background check and the criminal history shall not be disclosed to the parties or their attorneys. The background ((~~statement~~)) information record shall not include identifying information that may be used to harm a guardian ad litem, such as home addresses and home telephone numbers, and for volunteer guardians ad litem the court may allow the use of maiden names or pseudonyms as necessary for their safety.

(4) When a court-appointed special advocate or volunteer guardian ad litem is requested on a case, the program shall give the court the name of the person it recommends ((~~and the appointment shall be effective immediately~~)). The court shall immediately appoint the person recommended by the program.

(5) If a party in a case reasonably believes the court-appointed special advocate or volunteer guardian ad litem is inappropriate or unqualified, the party may request a review of

the appointment by the program. The program must complete the review within five judicial days and remove any appointee for good cause. If the party seeking the review is not satisfied with the outcome of the review, the party may file a motion with the court for the removal of the court-appointed special advocate or volunteer guardian ad litem on the grounds the advocate or volunteer is inappropriate or unqualified.

**Sec. 4** RCW 26.12.177 and 2007 c 496 s 305 are each amended to read as follows:

(1) All guardians ad litem and investigators appointed under this title must comply with the training requirements established under RCW 2.56.030(15), prior to their appointment in cases under Title 26 RCW, except that volunteer guardians ad litem or court-appointed special advocates may comply with alternative training requirements approved by the administrative office of the courts that meet or exceed the statewide requirements. In cases involving allegations of limiting factors under RCW 26.09.191, the guardians ad litem and investigators appointed under this title must have additional relevant training under RCW 2.56.030(15) and as recommended under RCW 2.53.040, when it is available.

(2)(a) Each guardian ad litem program for compensated guardians ad litem shall establish a rotational registry system for the appointment of guardians ad litem and investigators under this title. If a judicial district does not have a program the court shall establish the rotational registry system. Guardians ad litem and investigators under this title shall be selected from the registry except in exceptional circumstances as determined and documented by the court. The parties may make a joint recommendation for the appointment of a guardian ad litem from the registry.

(b) In judicial districts with a population over one hundred thousand, a list of three names shall be selected from the registry and given to the parties along with the background information record as specified in RCW 26.12.175(3), including their hourly rate for services. Each party may, within three judicial days, strike one name from the list. If more than one name remains on the list, the court shall make the appointment from the names on the list. In the event all three names are stricken the person whose name appears next on the registry shall be appointed.

(c) If a party reasonably believes that the appointed guardian ad litem ((~~lacks the necessary expertise for the proceeding~~)) is inappropriate or unqualified, charges an hourly rate higher than what is reasonable for the particular proceeding, or has a conflict of interest, the party may, within three judicial days from the appointment, move for substitution of the appointed guardian ad litem by filing a motion with the court.

(d) Under this section, within either registry referred to in (a) of this subsection, a subregistry may be created that consists of guardians ad litem under contract with the department of social and health services' division of child support. Guardians ad litem on such a subregistry shall be selected and appointed in state-initiated paternity cases only.

(e) The superior court shall remove any person from the guardian ad litem registry who ((~~misrepresents~~)) has been found to have misrepresented his or her qualifications ((~~pursuant to a grievance procedure established by the court~~)).

(3) The rotational registry system shall not apply to court-appointed special advocate programs."

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 Substitute Senate Bill No. 5285 and ask the House to recede therefrom.

Senator Regala spoke in favor of the motion.

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 Substitute Senate Bill No. 5285 and ask the House to recede therefrom.

The motion by Senator Regala carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 5285 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 16, 2009

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5321 with the following amendment: 5321-S.E AMH ENGR H2982.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 82.14.415 and 2006 c 361 s 1 are each amended to read as follows:

(1) The legislative authority of any city ((~~with a population less than four hundred thousand and which~~)) that is located in a county with a population greater than six hundred thousand that annexes an area consistent with its comprehensive plan required by chapter 36.70A RCW, may impose a sales and use tax in accordance with the terms of this chapter. The tax is in addition to 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 city. The tax may only be imposed by a city if:

(a) The city has commenced annexation of an area ((~~under chapter 35.13 or 35A.14 RCW~~)) having a population of at least ten thousand people prior to January 1, ((~~2010~~)) 2015; and

(b) The city legislative authority determines by resolution or ordinance that the projected cost to provide municipal services to the annexation area exceeds the projected general revenue that the city would otherwise receive from the annexation area on an annual basis.

(2) The tax authorized under this section is a credit against the state tax under chapter 82.08 or 82.12 RCW. The department of revenue shall perform the collection of such taxes on behalf of the city at no cost to the city and shall remit the tax to the city as provided in RCW 82.14.060.

(3)(a) Except as provided in (b) of this subsection, the maximum rate of tax any city may impose under this section ((~~shall be 0.2 percent for the total number of annexed areas the city may annex. The rate of the tax imposed under this section~~)) is:

(i) 0.1 percent for each annexed area in which the population ((~~that~~)) is greater than ten thousand and less than twenty thousand((~~. The rate of the tax imposed under this section shall be~~)); and

(ii) 0.2 percent for an annexed area in which the population is greater than twenty thousand.

(b) Beginning July 1, 2011, the maximum rate of tax imposed under this section is 0.85 percent for an annexed area in which the population is greater than eighteen thousand if the annexed area was, prior to November 1, 2008, officially designated as a potential annexation area by more than one city, one of which has a population greater than four hundred thousand.

(4)(a) Except as provided in (b) and (c) of this subsection, the maximum cumulative rate of tax a city may impose under

subsection (3)(a) of this section is 0.2 percent for the total number of annexed areas the city may annex.

(b) The maximum cumulative rate of tax a city may impose under subsection (3)(a) of this section is 0.3 percent, beginning July 1, 2011, if the city commenced annexation of an area, prior to January 1, 2010, that would have otherwise allowed the city to increase the rate of tax imposed under this section absent the rate limit imposed in (a) of this subsection.

(c) The maximum cumulative rate of tax a city may impose under subsection (3)(b) of this section is 0.85 percent for the single annexed area the city may annex and the amount of tax distributed to a city under subsection (3)(b) of this section shall not exceed five million dollars per fiscal year.

(5) The tax imposed by this section shall only be imposed at the beginning of a fiscal year and shall continue for no more than ten years from the date that each increment of the tax is first imposed. Tax rate increases due to additional annexed areas shall be effective on July 1st of the fiscal year following the fiscal year in which the annexation occurred, provided that notice is given to the department as set forth in subsection (((~~(8)~~))) (9) of this section.

(((~~(5)~~))) (6) All revenue collected under this section shall be used solely to provide, maintain, and operate municipal services for the annexation area.

(((~~(6)~~))) (7) The revenues from the tax authorized in this section may not exceed that which the city deems necessary to generate revenue equal to the difference between the city's cost to provide, maintain, and operate municipal services for the annexation area and the general revenues that the cities would otherwise expect to receive from the annexation during a year. If the revenues from the tax authorized in this section and the revenues from the annexation area exceed the costs to the city to provide, maintain, and operate municipal services for the annexation area during a given year, the city shall notify the department and the tax distributions authorized in this section shall be suspended for the remainder of the year.

(((~~(7)~~))) (8) No tax may be imposed under this section before July 1, 2007. Before imposing a tax under this section, the legislative authority of a city shall adopt an ordinance that includes the following:

(a) A certification that the amount needed to provide municipal services to the annexed area reflects the city's true and actual costs;

(b) The rate of tax under this section that shall be imposed within the city; and

(((~~(b)~~))) (c) The threshold amount for the first fiscal year following the annexation and passage of the ordinance.

(((~~(8)~~))) (9) The tax shall cease to be distributed to the city for the remainder of the fiscal year once the threshold amount has been reached. No later than March 1st of each year, the city shall provide the department with a certification of the city's true and actual costs to provide municipal services to the annexed area, a new threshold amount for the next fiscal year, and notice of any applicable tax rate changes. Distributions of tax under this section shall begin again on July 1st of the next fiscal year and continue until the new threshold amount has been reached or June 30th, whichever is sooner. Any revenue generated by the tax in excess of the threshold amount shall belong to the state of Washington. Any amount resulting from the threshold amount less the total fiscal year distributions, as of June 30th, shall not be carried forward to the next fiscal year.

(10) The tax shall cease to be distributed to a city imposing the tax under subsection (3)(b) of this section for the remainder of the fiscal year, if the total distributions to the city imposing the tax exceed five million dollars for the fiscal year.

(((~~(9)~~))) (11) The following definitions apply throughout this section unless the context clearly requires otherwise:

(a) "Annexation area" means an area that has been annexed to a city under chapter 35.13 or 35A.14 RCW. "Annexation area" includes all territory described in the city resolution.

(b) "Commenced annexation" means the initiation of annexation proceedings has taken place under the direct petition method or the election method under chapter 35.13 or 35A.14 RCW.

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

(((~~(c)~~))) (d) "Municipal services" means those services customarily provided to the public by city government.

(((~~(d)~~))) (e) "Fiscal year" means the year beginning July 1st and ending the following June 30th.

(f) "Potential annexation area" means one or more geographic areas that a city has officially designated for potential future annexation, as part of its comprehensive plan adoption process under the state growth management act, chapter 36.70A RCW.

(((~~(e)~~))) (g) "Threshold amount" means the maximum amount of tax distributions as determined by the city in accordance with subsection (((~~(6)~~))) (7) of this section that the department shall distribute to the city generated from the tax imposed under this section in a fiscal year.

**Sec. 2.** RCW 9.46.295 and 1974 ex.s. c 155 s 6 are each amended to read as follows:

(1) Any license to engage in any of the gambling activities authorized by this chapter as now exists or as hereafter amended, and issued under the authority thereof shall be legal authority to engage in the gambling activities for which issued throughout the incorporated and unincorporated area of any county, except that a city located therein with respect to that city, or a county with respect to all areas within that county except for such cities, may absolutely prohibit, but may not change the scope of license, any or all of the gambling activities for which the license was issued.

(2) A city or town with a prohibition or limitation on house-banked social card game licenses that annexes an area that is within a county that permits house-banked social card games may allow a house-banked social card game business that existed on the effective date of this act to continue operating if the city or town is authorized to impose a tax under RCW 82.14.415 and can demonstrate that the continuation of the house-banked social card game business will reduce the credit against the state sales and use tax as provided in RCW 82.14.415(7). A city or town that allows a house-banked social card game business in an annexed area to continue operating is not required to allow additional house-banked social card game businesses."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Prentice moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5321 and ask the House to recede therefrom.

Senator Prentice spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Prentice that the Senate refuses to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5321 and ask the House to recede therefrom.

The motion by Senator Prentice carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5321 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. 5431

with the following amendments: 5431-S AMH ELCS H2835.2 & 5431-S AMH .... H3142.1

On page 1, line 9, after "child." insert "Pursuant to RCW 13.34.060 and 13.34.130, placement of the child with a relative is the preferred option."

Beginning on page 1, line 14, after "care," strike all material through "and the" on page 2, line 3, and insert "and the department cannot locate an appropriate and available relative, the preferred placement for the child is in a foster family home where the child previously was placed, if the following conditions are met:

(a) The foster family home is available and willing to care for the child;

(b) The foster family is appropriate and able to meet the child's needs; and

(c) The"

On page 2, after line 3, insert the following:

"(3) In selecting the placement for a child being returned to foster care, the department shall give weight to the child's length of stay and attachment to the caregivers in the previous placements in determining what is in the best interest of the child.

NEW SECTION. **Sec. 2.** A new section is added to chapter 13.34 RCW to read as follows:

(1) To provide stability for children in out-of-home care, placement selection shall be made with a view toward the fewest possible placements for each child. If possible, the initial placement shall be viewed as the only placement for the child. The use of short- term interim placements of thirty days or less to protect the child's health or safety while the placement of choice is being arranged is not a violation of this principle.

(2) If a child has been previously placed in out-of-home care and is subsequently returned to out-of-home care, and the department cannot locate an appropriate and available relative, the preferred placement for the child is in a foster family home where the child previously was placed, if the following conditions are met:

(a) The foster family home is available and willing to care for the child;

(b) The foster family is appropriate and able to meet the child's needs; and

(c) The placement is in the best interest of the child.

(3) In selecting the placement for a child being returned to foster care, the court shall give weight to the child's length of stay and attachment to the caregivers in the previous placements in determining what is in the best interest of the child."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5431 and ask the House to recede therefrom.

Senator Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5431 and ask the House to recede therefrom.

The motion by Senator Hargrove carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 5431 and asked the House to recede therefrom by voice vote.

MOTION

On motion of Senator Delvin, Senator Hewitt was excused.

MESSAGE FROM THE HOUSE

April 14, 2009

MR. PRESIDENT:

The House has passed SENATE BILL NO. 5453 with the following amendment: 5453 AMH JUDI TANG 077

On page 2, after line 1, insert the following:

"**Sec. 2.** RCW 26.09.520 and 2000 c 21 s 14 are each amended to read as follows:

(1) The person proposing to relocate with the child shall provide his or her reasons for the intended relocation. Except as provided in subsection (2) of this section, there is a rebuttable presumption that the intended relocation of the child will be permitted. A person entitled to object to the intended relocation of the child may rebut the presumption by demonstrating that the detrimental effect of the relocation outweighs the benefit of the change to the child and the relocating person, based upon the following factors. The factors listed in this section are not weighted. No inference is to be drawn from the order in which the following factors are listed:

(((~~(1)~~))) (a) The relative strength, nature, quality, extent of involvement, and stability of the child's relationship with each parent, siblings, and other significant persons in the child's life;

(((~~(2)~~))) (b) Prior agreements of the parties;

(((~~(3)~~))) (c) Whether disrupting the contact between the child and the person with whom the child resides a majority of the time would be more detrimental to the child than disrupting contact between the child and the person objecting to the relocation;

(((~~(4)~~))) (d) Whether either parent or a person entitled to residential time with the child is subject to limitations under RCW 26.09.191;

(((~~(5)~~))) (e) The reasons of each person for seeking or opposing the relocation and the good faith of each of the parties in requesting or opposing the relocation;

(((~~(6)~~))) (f) The age, developmental stage, and needs of the child, and the likely impact the relocation or its prevention will have on the child's physical, educational, and emotional development, taking into consideration any special needs of the child;

(((~~(7)~~))) (g) The quality of life, resources, and opportunities available to the child and to the relocating party in the current and proposed geographic locations;

(((~~(8)~~))) (h) The availability of alternative arrangements to foster and continue the child's relationship with and access to the other parent;

(((~~(9)~~))) (i) The alternatives to relocation and whether it is feasible and desirable for the other party to relocate also;

(((~~(10)~~))) (j) The financial impact and logistics of the relocation or its prevention; and

(((~~(11)~~))) (k) For a temporary order, the amount of time before a final decision can be made at trial.

(2) The rebuttable presumption under subsection (1) of this section does not apply when the child, under a court order, has substantially equal residential time with the person proposing to relocate the child and another person entitled to residential time with the child."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate refuse to concur in

the House amendment(s) to Senate Bill No. 5453 and ask the House to recede therefrom.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 5453 and ask the House to recede therefrom

The motion by Senator Hargrove carried and the Senate refused to concur in the House amendment(s) to Senate Bill No. 5453 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 9, 2009

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 5510 with the following amendment: 5510-S AMH ENGR H2848.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that when children have been found dependent and placed in out-of-home care, the likelihood of reunification with their parents diminishes significantly after fifteen months. The legislature also finds that early and consistent parental engagement in services and participation in appropriate parent-child contact and visitation increases the likelihood of successful reunifications. The legislature intends to promote greater awareness among parents in dependency cases of the importance of active participation in services, visitation, and case planning for the child, and the risks created by failure to participate in their child's case over the long term.

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

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

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

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

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

"NOTICE

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

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

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

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

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

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

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

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

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

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

7. If the court decides to place your child in the custody of the department of social and health services or other supervising agency, the department or agency will create a permanency plan for your child, including a primary placement goal and secondary placement goal. The department or agency also will recommend that the court order services for your child and for you, if needed. The department or agency is required to make reasonable efforts to provide you with services to address your parenting problems, and to provide you with visitation with your child according to court orders. Failure to promptly engage in services or to maintain contact with your child may lead to the filing of a petition to terminate your parental rights.

8. Primary and secondary permanency plans are intended to run at the same time so that your child will have a permanent home as quickly as possible. Absent good cause, and when

appropriate, the department or other supervising agency must follow the wishes of a natural parent regarding placement of a child. You should tell your lawyer and the court where you wish your child placed immediately, including whether you want your child placed with you, with a relative, or with another suitable person. You also should tell your lawyer and the court what services you feel are necessary and your wishes regarding visitation with your child. Even if you want another parent or person to be the primary placement choice for your child, you should tell your lawyer, the department or other supervising agency, and the court if you want to be a secondary placement option, and you should comply with court orders for services and participate in visitation with your child. Early and consistent involvement in your child's case plan is important for the well-being of your child.

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

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

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

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

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

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

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

NEW SECTION. **Sec. 3.** A new section is added to chapter 13.34 RCW to read as follows:

(1) After entry of a dispositional order pursuant to RCW 13.34.130 ordering placement of a child in out-of-home care, the department shall continue to encourage the parent, guardian, or custodian of the child to engage in services and maintain contact with the child, which shall be accomplished by attaching a standard notice to the services and safety plan to be provided in advance of hearings conducted pursuant to RCW 13.34.138.

(2) The notice shall be photocopied on contrasting paper to distinguish it from the services and safety plan to which it is attached, and shall be in substantially the following form:

"NOTICE

If you have not been maintaining consistent contact with your child in out-of-home care, your ability to reunify with your child may be jeopardized. If this is your situation, you need to be aware that you have important legal rights and must take steps to protect your interests.

1. The department of social and health services (or other supervising agency) and the court have created a permanency plan for your child, including a primary placement plan and a secondary placement plan, and recommending services needed before your child can be placed in the primary or secondary placement. If you want the court to order that your child be reunified with you, you should notify your lawyer and the department, and you should carefully comply with court orders for services and participate regularly in visitation with your child. Failure to promptly engage in services or to maintain contact with your child may lead to the filing of a petition to terminate your rights as a parent.

2. Primary and secondary permanency plans are intended to run at the same time so that your child will have a permanent home as quickly as possible. Even if you want another parent or person to be the primary placement choice for your child, you should tell your lawyer, the department, and the court if you want to be the secondary placement option, and you should comply with any court orders for services and participate in visitation with your child. Early and consistent involvement in your child's case plan is important for the well-being of your child.

3. Dependency review hearings, and all other dependency case hearings, are legal proceedings with potentially serious consequences. Failure to participate, respond, or comply with court orders may lead to the loss of your parental rights."

**Sec. 4.** RCW 13.34.065 and 2008 c 267 s 2 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

(b) If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, whether such waiver is knowing and voluntary. A parent may not waive his or her right to the shelter care hearing unless he or she appears in court and the

court determines that the waiver is knowing and voluntary. Regardless of whether the court accepts the parental waiver of the shelter care hearing, the court must provide notice to the parents of their rights required under (a) of this subsection and make the finding required under subsection (4) of this section.

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

(a) Whether the notice required under RCW 13.34.062 was given to all known parents, guardians, or legal custodians of the child. The court shall make an express finding as to whether the notice required under RCW 13.34.062 was given to the parent, guardian, or legal custodian. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order the supervising agency or the department of social and health services to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090;

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

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

(d) What services were provided to the family to prevent or eliminate the need for removal of the child from the child's home;

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

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

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

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

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

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

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

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

(i) After consideration of the specific services that have been provided, reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and

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

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

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

(b) If the court does not release the child to his or her parent, guardian, or legal custodian, the court shall order placement with a relative, unless there is reasonable cause to believe the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered. The relative must be willing and available to:

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

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

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

(c) If the child was not initially placed with a relative, and the court does not release the child to his or her parent, guardian, or legal custodian, the supervising agency shall make reasonable efforts to locate a relative pursuant to RCW 13.34.060(1). In determining placement, the court shall weigh the child's length of stay and attachment to the current provider in determining what is in the best interest of the child.

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

(e) Any placement with a relative, or other person approved by the court pursuant to this section, shall be contingent upon cooperation with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order is grounds for removal of the child from the home of the relative or other person, subject to review by the court.

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

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

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

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

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

(b)(i) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

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

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

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

**Sec. 5.** RCW 13.34.145 and 2008 c 152 s 3 are each amended to read as follows:

(1) The purpose of a permanency planning hearing is to review the permanency plan for the child, inquire into the welfare of the child and progress of the case, and reach decisions regarding the permanent placement of the child.

(a) A permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least nine months and an adoption decree, guardianship order, or permanent custody order has not previously been entered. The hearing shall take place no later than twelve months following commencement of the current placement episode.

(b) Whenever a child is removed from the home of a dependency guardian or long-term relative or foster care provider, and the child is not returned to the home of the parent, guardian, or legal custodian but is placed in out-of-home care, a permanency planning hearing shall take place no later than twelve months, as provided in this section, following the date of removal unless, prior to the hearing, the child returns to the home of the dependency guardian or long-term care provider, the child is placed in the home of the parent, guardian, or legal custodian, an adoption decree, guardianship order, or a permanent custody order is entered, or the dependency is dismissed. Every effort shall be made to provide stability in long-term placement, and to avoid disruption of placement, unless the child is being returned home or it is in the best interest of the child.

(c) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months. In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(2) No later than ten working days prior to the permanency planning hearing, the agency having custody of the child shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties and their legal counsel, if any.

(3) At the permanency planning hearing, the court shall conduct the following inquiry:

(a) If a goal of long-term foster or relative care has been achieved prior to the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remain appropriate.

(b) In cases where the primary permanency planning goal has not been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal. The court shall review the permanency plan prepared by the agency and make explicit findings regarding each of the following:

(i) The continuing necessity for, and the safety and appropriateness of, the placement;

(ii) The extent of compliance with the permanency plan by the agency and any other service providers, the child's parents, the child, and the child's guardian, if any;

(iii) The extent of any efforts to involve appropriate service providers in addition to agency staff in planning to meet the special needs of the child and the child's parents;

(iv) The progress toward eliminating the causes for the child's placement outside of his or her home and toward returning the child safely to his or her home or obtaining a permanent placement for the child;

(v) The date by which it is likely that the child will be returned to his or her home or placed for adoption, with a guardian or in some other alternative permanent placement; and

(vi) If the child has been placed outside of his or her home for fifteen of the most recent twenty-two months, not including any period during which the child was a runaway from the out-of-home placement or the first six months of any period during which the child was returned to his or her home for a trial home visit, the appropriateness of the permanency plan, whether reasonable efforts were made by the agency to achieve the goal of the permanency plan, and the circumstances which prevent the child from any of the following:

(A) Being returned safely to his or her home;

(B) Having a petition for the involuntary termination of parental rights filed on behalf of the child;

(C) Being placed for adoption;

(D) Being placed with a guardian;

(E) Being placed in the home of a fit and willing relative of the child; or

(F) Being placed in some other alternative permanent placement, including independent living or long-term foster care.

At this hearing, the court shall order the department to file a petition seeking termination of parental rights if the child has been in out-of-home care for fifteen of the last twenty-two months since the date the dependency petition was filed unless the court makes a good cause exception as to why the filing of a termination of parental rights petition is not appropriate. Any good cause finding shall be reviewed at all subsequent hearings pertaining to the child. For purposes of this section, "good cause exception" includes but is not limited to the following: The child is being cared for by a relative; the department has not provided to the child's family such services as the court and the department have deemed necessary for the child's safe return home; or the department has documented in the case plan a compelling reason for determining that filing a petition to terminate parental rights would not be in the child's best interests.

(c)(i) If the permanency plan identifies independent living as a goal, the court shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial, personal, social, educational, and nonfinancial affairs prior to approving independent living as a permanency plan of care.

(ii) The permanency plan shall also specifically identify the services that will be provided to assist the child to make a successful transition from foster care to independent living.

(iii) The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(d) If the child has resided in the home of a foster parent or relative for more than six months prior to the permanency planning hearing, the court shall also enter a finding regarding whether the foster parent or relative was informed of the hearing as required in RCW 74.13.280, 13.34.215(5), and 13.34.096.

(4) In all cases, at the permanency planning hearing, the court shall enter one of the following orders for a child. The court shall utilize a developmentally appropriate child-centered perspective to consider the child's history and attachment status, how separation from primary caregivers has affected the child, and how an additional separation and change in placement may affect the child's attachment system or create a risk of psychological harm with potentially lifelong consequences:

(a)(i) Order the permanency plan prepared by the agency to be implemented; or

(ii) Modify the permanency plan, and order implementation of the modified plan; and

(b)(i) Order the child returned home only if the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists; or

(ii) Order the child to remain in out-of-home care for a limited specified time period while efforts are made to implement the permanency plan.

(5) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.

(6) Prior to the second permanency planning hearing, the agency that has custody of the child shall consider whether to file a petition for termination of parental rights.

(7) If the court orders the child returned home, casework supervision shall continue for at least six months, at which time a review hearing shall be held pursuant to RCW 13.34.138, and the court shall determine the need for continued intervention.

(8) The juvenile court may hear a petition for permanent legal custody when: (a) The court has ordered implementation of a permanency plan that includes permanent legal custody; and (b) the party pursuing the permanent legal custody is the party identified in the permanency plan as the prospective legal custodian. During the pendency of such proceeding, the court shall conduct review hearings and further permanency planning hearings as provided in this chapter. At the conclusion of the legal guardianship or permanent legal custody proceeding, a juvenile court hearing shall be held for the purpose of determining whether dependency should be dismissed. If a guardianship or permanent custody order has been entered, the dependency shall be dismissed.

(9) Continued juvenile court jurisdiction under this chapter shall not be a barrier to the entry of an order establishing a legal guardianship or permanent legal custody when the requirements of subsection (8) of this section are met.

(10) Nothing in this chapter may be construed to limit the ability of the agency that has custody of the child to file a petition for termination of parental rights or a guardianship petition at any time following the establishment of dependency. Upon the filing of such a petition, a fact-finding hearing shall be scheduled and held in accordance with this chapter unless the agency requests dismissal of the petition prior to the hearing or unless the parties enter an agreed order terminating parental rights, establishing guardianship, or otherwise resolving the matter.

(11) The approval of a permanency plan that does not contemplate return of the child to the parent does not relieve the supervising agency of its obligation to provide reasonable services, under this chapter, intended to effectuate the return of the child to the parent, including but not limited to, visitation rights. The court shall consider the child's relationships with siblings in accordance with RCW 13.34.130.

(12) Nothing in this chapter may be construed to limit the procedural due process rights of any party in a termination or guardianship proceeding filed under this chapter.

**Sec. 6.** RCW 13.34.180 and 2001 c 332 s 4 are each amended to read as follows:

(1) A petition seeking termination of a parent and child relationship may be filed in juvenile court by any party to the dependency proceedings concerning that child. Such petition shall conform to the requirements of RCW 13.34.040, shall be served upon the parties as provided in RCW 13.34.070(8), and shall allege all of the following unless subsection (2) or (3) of this section applies:

(a) That the child has been found to be a dependent child;

(b) That the court has entered a dispositional order pursuant to RCW 13.34.130;

(c) That the child has been removed or will, at the time of the hearing, have been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency;

(d) That the services ordered under RCW 13.34.136 have been expressly and understandably offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been expressly and understandably offered or provided;

(e) That there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. A parent's failure to substantially improve parental deficiencies within twelve months following entry of the dispositional order shall give rise to a rebuttable presumption that there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. The presumption shall not arise unless the petitioner makes a showing that all necessary services reasonably capable of correcting the parental deficiencies within the foreseeable future have been clearly offered or provided. In determining whether the conditions will be remedied the court may consider, but is not limited to, the following factors:

(i) Use of intoxicating or controlled substances so as to render the parent incapable of providing proper care for the child for extended periods of time or for periods of time that present a risk of imminent harm to the child, and documented unwillingness of the parent to receive and complete treatment or documented multiple failed treatment attempts; ((~~or~~))

(ii) Psychological incapacity or mental deficiency of the parent that is so severe and chronic as to render the parent incapable of providing proper care for the child for extended periods of time or for periods of time that present a risk of imminent harm to the child, and documented unwillingness of the parent to receive and complete treatment or documentation that there is no treatment that can render the parent capable of providing proper care for the child in the near future; or

(iii) Failure of the parent to have contact with the child for an extended period of time after the filing of the dependency petition if the parent was provided an opportunity to have a relationship with the child by the department or the court and received documented notice of the potential consequences of this failure, except that the actual inability of a parent to have visitation with the child due to mitigating circumstances including, but not limited to, a parent's incarceration or service in the military does not in and of itself constitute failure to have contact with the child; and

(f) That continuation of the parent and child relationship clearly diminishes the child's prospects for early integration into a stable and permanent home.

(2) In lieu of the allegations in subsection (1) of this section, the petition may allege that the child was found under such circumstances that the whereabouts of the child's parent are unknown and no person has acknowledged paternity or maternity and requested custody of the child within two months after the child was found.

(3) In lieu of the allegations in subsection (1)(b) through (f) of this section, the petition may allege that the parent has been convicted of:

(a) Murder in the first degree, murder in the second degree, or homicide by abuse as defined in chapter 9A.32 RCW against another child of the parent;

(b) Manslaughter in the first degree or manslaughter in the second degree, as defined in chapter 9A.32 RCW against another child of the parent;

(c) Attempting, conspiring, or soliciting another to commit one or more of the crimes listed in (a) or (b) of this subsection; or

(d) Assault in the first or second degree, as defined in chapter 9A.36 RCW, against the surviving child or another child of the parent.

(4) Notice of rights shall be served upon the parent, guardian, or legal custodian with the petition and shall be in substantially the following form:

"NOTICE

A petition for termination of parental rights has been filed against you. You have important legal rights and you must take steps to protect your interests. This petition could result in permanent loss of your parental rights.

1. You have the right to a fact-finding hearing before a judge.

2. You have the right to have a lawyer represent you at the hearing. A lawyer can look at the files in your case, talk to the department of social and health services and other agencies, tell you about the law, help you understand your rights, and help you at hearings. If you cannot afford a lawyer, the court will appoint one to represent you. To get a court-appointed lawyer you must contact: (explain local procedure).

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

You should be present at this hearing.

You may call (insert agency) for more information about your child. The agency's name and telephone number are (insert name and telephone number)."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

POINT OF ORDER

Senator Stevens: "Thank you Mr. President. I believe that House amendment to Substitute Senate Bill No. 5510 is beyond the scope and object of the bill as it left the senate and I have some arguments to offer to you Mr. President. Thank you Mr. President. The underlying bill as it left the senate did one thing: It added two items to the notice to the Department of Social & Health Services is currently required to send to parents at the shelter care stage of the dependency case. It was a four page bill when it left, when it left the senate and with the additions of the House amendments it is now a nineteen page bill, certainly beyond what we have sent over to them. The bill as amended by the House includes a new notice to be provided to parents at the dispositional stage of the dependency proceeding. The amendments also require the court at the shelter care stage of the dependency proceeding when making a placement decision to weigh a number of factors affecting the child. The amendment further requires the court at all permanency planning hearings and dependency matters to use a developmentally appropriate child centered perspective to consider the impact to the child in the system of multiple placements and lastly, at the termination of the parental rights stage of the dependency process, the amendment as an additional requirement the court must consider when deciding whether to terminate parental rights. For these reasons I believe the House amendment is outside the scope and object of underlying bill as it left the senate and I respectfully request a ruling on this matter."

MOTION

On motion of Senator Eide, further consideration of Substitute Senate Bill No. 5510 was deferred and the bill held its place on the concurring calendar.

MESSAGE FROM THE HOUSE

April 9, 2009

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 5528 with the following amendment: 5528-S AMH JUDI TANG 059

On page 3, line 19, after "marital partners" insert "and domestic partners"

On page 3, line 20, after "during a marriage" insert "or domestic partnership"

On page 3, line 20, after "of marriage" insert "or domestic partnership"

On page 4, line 1, after "prenuptial" insert "or pre-domestic partnership"

On page 4, line 3, after "marital relationship" insert "or domestic partnership"

On page 4, line 6, after "marriage" insert "or domestic partnership"

On page 4, line 11, after "postmarital" insert "or pre-domestic partnership and post-domestic partnership"

On page 4, line 12, after "on" strike "spousal" and insert "((~~spousal~~))"

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

POINT OF ORDER

Senator Hargrove: "Yes Mr. President. I believe that the House amendments to Substitute Senate Bill No. 5528 are beyond the scope and object of the bill. Mr. President, I have something written for you, would that be... permissive?"

REPLY BY THE PRESIDENT

President Owen: "If you'd just submit it, that would be fine."

MOTION

On motion of Senator Eide, further consideration of Substitute Senate Bill No. 5528 was deferred and the bill held its place on the concurring calendar.

MESSAGE FROM THE HOUSE

April 13, 2009

MR. PRESIDENT:
The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5811 with the following amendment:5811-S.E AMH ENGR H2974.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 13.34.065 and 2008 c 267 s 2 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

(a) Whether the notice required under RCW 13.34.062 was given to all known parents, guardians, or legal custodians of the child. The court shall make an express finding as to whether the notice required under RCW 13.34.062 was given to the parent, guardian, or legal custodian. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order the supervising agency or the department of social and health services to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090;

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

(c) What efforts have been made to place the child with a relative. The court shall ask the parents whether the department discussed with them the placement of the child with a relative or other suitable person described in RCW 13.34.130(1)(b) and shall make an express finding regarding the department's efforts;

(d) What services were provided to the family to prevent or eliminate the need for removal of the child from the child's home;

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

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

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

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

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

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

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

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

(i) After consideration of the specific services that have been provided, reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and

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

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

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

(b) If the court does not release the child to his or her parent, guardian, or legal custodian, the court shall order placement with a relative or other suitable person as described in RCW 13.34.130(1)(b), ((~~unless there is reasonable cause to believe the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered~~)) if the court determines that placement with the relative or other suitable person is in the child's best interests. The relative or other suitable person must be willing and available to:

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

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

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

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

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

(e) Any placement with a relative, or other person approved by the court pursuant to this section, shall be contingent upon cooperation with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order is grounds for removal of the child from the home of the relative or other person, subject to review by the court.

(f) Uncertainty by a parent, guardian, legal custodian, relative, or other suitable person that the alleged abuser has in fact abused the child shall not, alone, be the basis upon which a child is removed from the care of a parent, guardian, or legal

custodian under (a) of this subsection, nor shall it be a basis, alone, to preclude placement with a relative under (b) of this subsection or with another suitable person under (d) of this subsection.

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

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

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

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

(b)(i) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

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

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

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

**Sec. 2.** RCW 13.34.130 and 2007 c 413 s 6 and 2007 c 412 s 2 are each reenacted and amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030 after consideration of the social study prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In determining the disposition, the court should choose those services, including housing assistance, that least interfere with family autonomy and are adequate to protect the child.

(b) Order the child to be removed from his or her home and into the custody, control, and care of a relative or other suitable person or the department or a licensed child placing agency for supervision of the child's placement. The department or agency supervising the child's placement has the authority to place the child, subject to review and approval by the court (i) with a relative as defined in RCW 74.15.020(2)(a), (ii) ((~~in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW, or (iii)~~)) in the home of another suitable person if the child or family has a preexisting relationship with that person, and the person has completed all required criminal history background checks and otherwise appears to the department or supervising agency to be suitable and competent to provide care for the child, or (iii) in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW. Absent good cause, the department or supervising agency shall follow the wishes of the natural parent regarding the placement of the child in accordance with RCW 13.34.260. The department or supervising agency may only place a child with a person not related to the child as defined in RCW 74.15.020(2)(a) when the court finds that such placement is in the best interest of the child. ((~~Unless there is reasonable cause to believe that the health, safety, or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, such~~)) The court shall consider the child's existing relationships and attachments in order to minimize disruption when determining whether the child shall be placed with a person who is: (A) Related to the child as defined in RCW 74.15.020(2)(a) with whom the child has a relationship and is comfortable; or (B) a suitable person as described in this subsection (1)(b); and ((~~(B)~~)) (C) willing, appropriate, and available to care for the child.

(2) Placement of the child with a relative ((~~under this subsection~~)) or other suitable person as described in subsection (1)(b) of this section shall be given preference by the court. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services that have been provided to the child and the child's parent, guardian, or legal custodian, and that preventive services have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home, and that:

(a) There is no parent or guardian available to care for such child;

(b) The parent, guardian, or legal custodian is not willing to take custody of the child; or

(c) The court finds, by clear, cogent, and convincing evidence, a manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger.

(3) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court shall consider whether it is in a child's best interest to be placed with, have contact with, or have visits with siblings.

(a) There shall be a presumption that such placement, contact, or visits are in the best interests of the child provided that:

(i) The court has jurisdiction over all siblings subject to the order of placement, contact, or visitation pursuant to petitions filed under this chapter or the parents of a child for whom there is no jurisdiction are willing to agree; and

(ii) There is no reasonable cause to believe that the health, safety, or welfare of any child subject to the order of placement, contact, or visitation would be jeopardized or that efforts to reunite the parent and child would be hindered by such placement, contact, or visitation. In no event shall parental visitation time be reduced in order to provide sibling visitation.

(b) The court may also order placement, contact, or visitation of a child with a step-brother or step-sister provided that in addition to the factors in (a) of this subsection, the child has a relationship and is comfortable with the step-sibling.

(4) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section and placed into nonparental or nonrelative care, the court shall order a placement that allows the child to remain in the same school he or she attended prior to the initiation of the dependency proceeding when such a placement is practical and in the child's best interest.

(5) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the requirements of RCW 13.34.132 are met.

(6) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative or other suitable person, the child shall remain in foster care and the court shall direct the supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative or other person appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives or other suitable persons, pursuant to this section, shall be contingent upon cooperation by the relative or other suitable person with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent- child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's or other suitable person's home, subject to review by the court.

**Sec. 3.** RCW 13.34.138 and 2007 c 413 s 8 and 2007 c 410 s 1 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(vii) Whether preference has been given to placement with the child's relatives if such placement is in the child's best interests;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) The court's ability to order housing assistance under RCW 13.34.130 and this section is: (a) Limited to cases in which homelessness or the lack of adequate and safe housing is the primary reason for an out-of-home placement; and (b) subject to the availability of funds appropriated for this specific purpose.

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

**Sec. 4.** RCW 13.34.145 and 2008 c 152 s 3 are each amended to read as follows:

(1) The purpose of a permanency planning hearing is to review the permanency plan for the child, inquire into the welfare of the child and progress of the case, and reach decisions regarding the permanent placement of the child.

(a) A permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least nine months and an adoption decree, guardianship order, or permanent custody order has not previously been entered. The hearing shall take place no later than twelve months following commencement of the current placement episode.

(b) Whenever a child is removed from the home of a dependency guardian or long-term relative or foster care provider, and the child is not returned to the home of the parent, guardian, or legal custodian but is placed in out-of-home care, a permanency planning hearing shall take place no later than twelve months, as provided in this section, following the date of removal unless, prior to the hearing, the child returns to the home of the dependency guardian or long-term care provider, the child is placed in the home of the parent, guardian, or legal custodian, an adoption decree, guardianship order, or a permanent custody order is entered, or the dependency is dismissed.

(c) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months. In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(2) No later than ten working days prior to the permanency planning hearing, the agency having custody of the child shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties and their legal counsel, if any.

(3) At the permanency planning hearing, the court shall conduct the following inquiry:

(a) If a goal of long-term foster or relative care has been achieved prior to the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remain appropriate.

(b) In cases where the primary permanency planning goal has not been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal. The court shall review the permanency plan prepared by the agency and make explicit findings regarding each of the following:

(i) The continuing necessity for, and the safety and appropriateness of, the placement;

(ii) The extent of compliance with the permanency plan by the agency and any other service providers, the child's parents, the child, and the child's guardian, if any;

(iii) The extent of any efforts to involve appropriate service providers in addition to agency staff in planning to meet the special needs of the child and the child's parents;

(iv) The progress toward eliminating the causes for the child's placement outside of his or her home and toward returning the child safely to his or her home or obtaining a permanent placement for the child;

(v) The date by which it is likely that the child will be returned to his or her home or placed for adoption, with a guardian or in some other alternative permanent placement; and

(vi) If the child has been placed outside of his or her home for fifteen of the most recent twenty-two months, not including any period during which the child was a runaway from the out-of-home placement or the first six months of any period during which the child was returned to his or her home for a trial home visit, the appropriateness of the permanency plan, whether reasonable efforts were made by the agency to achieve the goal of the permanency plan, and the circumstances which prevent the child from any of the following:

(A) Being returned safely to his or her home;

(B) Having a petition for the involuntary termination of parental rights filed on behalf of the child;

(C) Being placed for adoption;

(D) Being placed with a guardian;

(E) Being placed in the home of a fit and willing relative of the child; or

(F) Being placed in some other alternative permanent placement, including independent living or long-term foster care.

At this hearing, the court shall order the department to file a petition seeking termination of parental rights if the child has been in out-of-home care for fifteen of the last twenty-two months since the date the dependency petition was filed unless the court makes a good cause exception as to why the filing of a termination of parental rights petition is not appropriate. Any good cause finding shall be reviewed at all subsequent hearings pertaining to the child. For purposes of this section, "good cause exception" includes but is not limited to the following: The child is being cared for by a relative; the department has not provided to the child's family such services as the court and the department have deemed necessary for the child's safe return home; or the department has documented in the case plan a compelling reason for determining that filing a petition to terminate parental rights would not be in the child's best interests.

(c)(i) If the permanency plan identifies independent living as a goal, the court shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial, personal, social, educational, and nonfinancial affairs prior to approving independent living as a permanency plan of care.

(ii) The permanency plan shall also specifically identify the services that will be provided to assist the child to make a successful transition from foster care to independent living.

(iii) The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(d) If the child has resided in the home of a foster parent or relative for more than six months prior to the permanency planning hearing, the court shall ((~~also~~)):

(i) Enter a finding regarding whether the foster parent or relative was informed of the hearing as required in RCW 74.13.280, 13.34.215(5), and 13.34.096; and

(ii) In the situation in which the department or supervising agency is recommending a placement other than the current placement with a foster parent, relative, or other suitable person, make an express finding of the reasons the department or agency is recommending that the child be moved.

(4) In all cases, at the permanency planning hearing, the court shall:

(a)(i) Order the permanency plan prepared by the agency to be implemented; or

(ii) Modify the permanency plan, and order implementation of the modified plan; and

(b)(i) Order the child returned home only if the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists; or

(ii) Order the child to remain in out-of-home care for a limited specified time period while efforts are made to implement the permanency plan.

(5) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.

(6) Prior to the second permanency planning hearing, the agency that has custody of the child shall consider whether to file a petition for termination of parental rights.

(7) If the court orders the child returned home, casework supervision shall continue for at least six months, at which time a review hearing shall be held pursuant to RCW 13.34.138, and the court shall determine the need for continued intervention.

(8) The juvenile court may hear a petition for permanent legal custody when: (a) The court has ordered implementation of a permanency plan that includes permanent legal custody; and (b) the party pursuing the permanent legal custody is the party identified in the permanency plan as the prospective legal custodian. During the pendency of such proceeding, the court shall conduct review hearings and further permanency planning hearings as provided in this chapter. At the conclusion of the legal guardianship or permanent legal custody proceeding, a juvenile court hearing shall be held for the purpose of determining whether dependency should be dismissed. If a guardianship or permanent custody order has been entered, the dependency shall be dismissed.

(9) Continued juvenile court jurisdiction under this chapter shall not be a barrier to the entry of an order establishing a legal guardianship or permanent legal custody when the requirements of subsection (8) of this section are met.

(10) Nothing in this chapter may be construed to limit the ability of the agency that has custody of the child to file a petition for termination of parental rights or a guardianship petition at any time following the establishment of dependency. Upon the filing of such a petition, a fact-finding hearing shall be scheduled and held in accordance with this chapter unless the agency requests dismissal of the petition prior to the hearing or unless the parties enter an agreed order terminating parental rights, establishing guardianship, or otherwise resolving the matter.

(11) The approval of a permanency plan that does not contemplate return of the child to the parent does not relieve the supervising agency of its obligation to provide reasonable services, under this chapter, intended to effectuate the return of the child to the parent, including but not limited to, visitation rights. The court shall consider the child's relationships with siblings in accordance with RCW 13.34.130.

(12) Nothing in this chapter may be construed to limit the procedural due process rights of any party in a termination or guardianship proceeding filed under this chapter.

NEW SECTION. **Sec. 5.** A new section is added to chapter 13.34 RCW to read as follows:

(1) At a disposition, review, or any other hearing that occurs after a dependency is established under this chapter, the court shall ensure that a dependent child over the age of twelve, who is otherwise present in the courtroom, is aware of and understands the duties and responsibilities the department has to a child subject to a dependency including, but not limited to, the following:

(a) Reasonable efforts, including the provision of services, toward reunification of the child with his or her family;

(b) Sibling visits subject to the restrictions in RCW 13.34.136(2)(b)(ii);

(c) Parent-child visits;

(d) Statutory preference for placement with a relative or other suitable person as described in RCW 13.34.130(1)(b), if appropriate; and

(e) Statutory preference that an out-of-home placement be found that would allow the child to remain in the same school district, if practical.

(2) If the dependent child is already represented by counsel, the court need not comply with subsection (1) of this section.

NEW SECTION. **Sec. 6.** A new section is added to chapter 13.34 RCW to read as follows:

(1) The administrative office of the courts shall develop standard court forms and format rules for mandatory use by parties in dependency matters commenced under this chapter or chapter 26.44 RCW. Forms shall be developed not later than November 1, 2009, and the mandatory use requirement shall be effective January 1, 2010. The administrative office of the courts has continuing responsibility to develop and revise mandatory forms and format rules as appropriate.

(2) According to rules established by the administrative office of the courts, a party may delete unnecessary portions of the forms and may supplement the mandatory forms with additional material.

(3) Failure by a party to use the mandatory forms or follow the format rules shall not be a reason to dismiss a case, refuse a filing, or strike a pleading. The court may, however, require the party to submit a corrected pleading and may impose terms payable to the opposing party or payable to the court, or both.

(4) The administrative office of the courts shall distribute a master copy of the mandatory forms to all county court clerks. Upon request, the administrative office of the courts and county clerks must distribute the forms to the public and may charge for the cost of production and distribution of the forms. Private vendors also may distribute the forms. Distribution of forms may be in printed or electronic form.

**Sec. 7.** RCW 74.13.031 and 2008 c 267 s 6 are each amended to read as follows:

The department shall have the duty to provide child welfare services and shall:

(1) Develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of runaway, dependent, or neglected children.

(2) Within available resources, recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and annually report to the governor and the legislature concerning the department's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) Investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis

of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency. An investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) Offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(5) Monitor placements of children in out-of-home care and in-home dependencies to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010. The policy for monitoring placements under this section shall require that children in out-of- home care and in-home dependencies and their caregivers receive a private and individual face-to-face visit each month.

(a) The department shall conduct the monthly visits with children and caregivers required under this section unless the child's placement is being supervised under a contract between the department and a private agency accredited by a national child welfare accrediting entity, in which case the private agency shall, within existing resources, conduct the monthly visits with the child and with the child's caregiver according to the standards described in this subsection and shall provide the department with a written report of the visits within fifteen days of completing the visits.

(b) In cases where the monthly visits required under this subsection are being conducted by a private agency, the department shall conduct a face-to-face health and safety visit with the child at least once every ninety days.

(6) Have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, to provide for the routine and necessary medical, dental, and mental health care, or necessary emergency care of the children, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(7) Have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(8) Have authority to purchase care for children; and shall follow in general the policy of using properly approved private agency services for the actual care and supervision of such children insofar as they are available, paying for care of such children as are accepted by the department as eligible for support at reasonable rates established by the department.

(9) Establish a children's services advisory committee which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

(10)((~~(a)~~)) Have authority to provide continued foster care or group care as needed to participate in or complete a high school or vocational school program.

((~~(b)(i) Beginning in 2006, the department has the authority to allow up to fifty youth reaching age eighteen to continue in foster care or group care as needed to participate in or complete a posthigh school academic or vocational program, and to receive necessary support and transition services.~~

~~(ii) In 2007 and 2008, the department has the authority to allow up to fifty additional youth per year reaching age eighteen to remain in foster care or group care as provided in (b)(i) of this subsection.~~

~~(iii)~~)) (11) Within amounts appropriated for this specific purpose, have authority to provide continued foster care or group care and necessary support and transition services to youth ages eighteen to twenty-one years who are enrolled and participating in a posthigh school academic or vocational program. A youth who remains eligible for such placement and services pursuant to department rules may continue in foster care or group care until the youth reaches his or her twenty-first birthday. ((~~Eligibility requirements shall include active enrollment in a posthigh school academic or vocational program and maintenance of a 2.0 grade point average.~~

~~(11)~~)) (12) Refer cases to the division of child support whenever state or federal funds are expended for the care and maintenance of a child, including a child with a developmental disability who is placed as a result of an action under chapter 13.34 RCW, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents of the child. Cases involving individuals age eighteen through twenty shall not be referred to the division of child support unless required by federal law.

((~~(12)~~)) (13) Have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order; and the purchase of such care shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this section all services to be provided by the department of social and health services under subsections (4), (6), and (7) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

((~~(13)~~)) (14) Within amounts appropriated for this specific purpose, provide preventive services to families with children that prevent or shorten the duration of an out-of-home placement.

((~~(14)~~)) (15) Have authority to provide independent living services to youths, including individuals who have attained eighteen years of age, and have not attained twenty-one years of age who are or have been in foster care.

((~~(15)~~)) (16) Consult at least quarterly with foster parents, including members of the foster parent association of Washington state, for the purpose of receiving information and comment regarding how the department is performing the duties and meeting the obligations specified in this section and RCW 74.13.250 and 74.13.320 regarding the recruitment of foster homes, reducing foster parent turnover rates, providing effective training for foster parents, and administering a coordinated and comprehensive plan that strengthens services for the protection of children. Consultation shall occur at the regional and statewide levels.

(17)(a) Within current funding levels, place on the public web site maintained by the department a document listing the duties and responsibilities the department has to a child subject to a dependency petition including, but not limited to, the following:

(i) Reasonable efforts, including the provision of services, toward reunification of the child with his or her family;

(ii) Sibling visits subject to the restrictions in RCW 13.34.136(2)(b)(ii);

(iii) Parent-child visits;

(iv) Statutory preference for placement with a relative or other suitable person, if appropriate; and

(v) Statutory preference that an out-of-home placement be found that would allow the child to remain in the same school district, if practical and in the child's best interests.

(b) The document must be prepared in conjunction with a community- based organization and must be updated as needed.

NEW SECTION. **Sec. 8.** A new section is added to chapter 74.13 RCW to read as follows:

Once a dependency is established under chapter 13.34 RCW, the social worker assigned to the case shall provide a dependent child, age twelve years or older with a document containing the information contained in RCW 74.13.031(17). The social worker shall also explain the content of the document to the child and direct the child to the department's web site for further information. The social worker shall document, in the electronic data system, that this requirement was met.

**Sec. 9.** RCW 74.13.333 and 2004 c 181 s 1 are each amended to read as follows:

(1) A foster parent who believes that a department employee has retaliated against the foster parent or in any other manner discriminated against the foster parent because:

((~~(1)~~)) (a) The foster parent made a complaint with the office of the family and children's ombudsman, the attorney general, law enforcement agencies, or the department, provided information, or otherwise cooperated with the investigation of such a complaint;

((~~(2)~~)) (b) The foster parent has caused to be instituted any proceedings under or related to Title 13 RCW;

((~~(3)~~)) (c) The foster parent has testified or is about to testify in any proceedings under or related to Title 13 RCW;

((~~(4)~~)) (d) The foster parent has advocated for services on behalf of the foster child;

((~~(5)~~)) (e) The foster parent has sought to adopt a foster child in the foster parent's care; or

((~~(6)~~)) (f) The foster parent has discussed or consulted with anyone concerning the foster parent's rights under this chapter or chapter 74.15 or 13.34 RCW, may file a complaint with the office of the family and children's ombudsman.

(2) Pursuant to chapter 43.06A RCW, the ombudsman may investigate the allegations of retaliation. The ombudsman shall have access to all relevant information and resources held by or within the department by which to conduct the investigation. Upon the conclusion of its investigation, the ombudsman shall provide its findings in written form to the department.

(3) The office of the family and children's ombudsman shall also include its recommendations regarding complaints filed under this section in its annual report pursuant to RCW 43.06A.030. The office of the family and children's ombudsman shall identify trends which may indicate a need to improve relations between the department and foster parents.

**Sec. 10.** RCW 74.13.109 and 1990 c 285 s 7 are each amended to read as follows:

(1) The secretary shall issue rules and regulations to assist in the administration of the program of adoption support authorized by RCW 26.33.320 and 74.13.100 through 74.13.145.

(2) Disbursements from the appropriations available from the general fund shall be made pursuant to such rules and regulations and pursuant to agreements conforming thereto to be made by the secretary with parents for the purpose of supporting the adoption of children in, or likely to be placed in, foster homes or child caring institutions who are found by the secretary to be difficult to place in adoption because of physical or other reasons; including, but not limited to, physical or mental handicap, emotional disturbance, ethnic background, language, race, color, age, or sibling grouping.

(3) Such agreements shall meet the following criteria:

((~~(1)~~)) (a) The child whose adoption is to be supported pursuant to such agreement shall be or have been a child hard to place in adoption.

((~~(2)~~)) (b) Such agreement must relate to a child who was or is residing in a foster home or child-caring institution or a child who, in the judgment of the secretary, is both eligible for, and likely to be placed in, either a foster home or a child-caring institution.

((~~(3)~~)) (c) Such agreement shall provide that adoption support shall not continue beyond the time that the adopted child reaches eighteen years of age, becomes emancipated, dies, or otherwise ceases to need support, provided that if the secretary shall find that continuing dependency of such child after such child reaches eighteen years of age warrants the continuation of support pursuant to RCW 26.33.320 and 74.13.100 through 74.13.145 the secretary may do so, subject to all the provisions of RCW 26.33.320 and 74.13.100 through 74.13.145, including annual review of the amount of such support.

((~~(4)~~)) (d) Any prospective parent who is to be a party to such agreement shall be a person who has the character, judgment, sense of responsibility, and disposition which make him or her suitable as an adoptive parent of such child.

(4) At least six months before an adoption is finalized under chapter 26.33 RCW and RCW 74.13.100 through 74.13.145, the department must provide to a prospective adoptive parent written information describing the limits of the adoption support program, including the following information:

(a) The limits on monthly cash payments to adoptive families;

(b) The limits on the availability of children's mental health services and the funds with which to pay for these services;

(c) The process for accessing mental health services for children receiving adoption support services;

(d) The limits on the one-time cash payments to adoptive families for expenses related to their adopted children; and

(e) That payment for residential or group care is not available under the adoption support program."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5811 and ask the House to recede therefrom.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5811 and ask the House to recede therefrom.

The motion by Senator Hargrove carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5811 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 13, 2009

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5889 with the following amendment:5889-S.E AMH ED H2855.3

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28A.165.025 and 2004 c 20 s 3 are each amended to read as follows:

((~~By July 1st of each year,~~)) (1) A participating school district shall submit the district's plan for using learning assistance funds to the office of the superintendent of public instruction for approval, to the extent required under subsection (2) of this section. ((~~For the 2004-05 school year, school districts must identify the program activities to be implemented from RCW 28A.165.035 and are encouraged to implement the~~

~~elements in subsections (1) through (8) of this section. Beginning in the 2005-06 school year,~~)) The program plan must identify the program activities to be implemented from RCW 28A.165.035 and implement all of the elements in ((~~subsections (1)~~)) (a) through ((~~(8)~~)) (h) of this ((~~section~~)) subsection. The school district plan shall include the following:

((~~(1)~~)) (a) District and school-level data on reading, writing, and mathematics achievement as reported pursuant to chapter 28A.655 RCW and relevant federal law;

((~~(2)~~)) (b) Processes used for identifying the underachieving students to be served by the program, including the identification of school or program sites providing program activities;

((~~(3)~~)) (c) How accelerated learning plans are developed and implemented for participating students. Accelerated learning plans may be developed as part of existing student achievement plan process such as student plans for achieving state high school graduation standards, individual student academic plans, or the achievement plans for groups of students. Accelerated learning plans shall include:

((~~(a)~~)) (i) Achievement goals for the students;

((~~(b)~~)) (ii) Roles of the student, parents, or guardians and teachers in the plan;

((~~(c)~~)) (iii) Communication procedures regarding student accomplishment; and

((~~(d)~~)) (iv) Plan reviews and adjustments processes;

((~~(4)~~)) (d) How state level and classroom assessments are used to inform instruction;

((~~(5)~~)) (e) How focused and intentional instructional strategies have been identified and implemented;

((~~(6)~~)) (f) How highly qualified instructional staff are developed and supported in the program and in participating schools;

((~~(7)~~)) (g) How other federal, state, district, and school resources are coordinated with school improvement plans and the district's strategic plan to support underachieving students; and

((~~(8)~~)) (h) How a program evaluation will be conducted to determine direction for the following school year.

(2) If a school district has received approval of its plan once, it is not required to submit a plan for approval under RCW 28A.165.045 or this section unless the district has made a significant change to the plan. If a district has made a significant change to only a portion of the plan the district need only submit a description of the changes made and not the entire plan. Plans or descriptions of changes to the plan must be submitted by July 1st as required under this section. The office of the superintendent of public instruction shall establish guidelines for what a "significant change" is.

**Sec. 2.** RCW 28A.165.045 and 2004 c 20 s 5 are each amended to read as follows:

A participating school district shall ((~~annually~~)) submit a program plan to the office of the superintendent of public instruction for approval to the extent required by RCW 28A.165.025. The program plan must address all of the elements in RCW 28A.165.025 and identify the program activities to be implemented from RCW 28A.165.035.

School districts achieving state reading and mathematics goals as prescribed in chapter 28A.655 RCW shall have their program approved once the program plan and activities submittal is completed.

School districts not achieving state reading and mathematics goals as prescribed in chapter 28A.655 RCW and that are not in a state or federal program of school improvement shall be subject to program approval once the plan components are reviewed by the office of the superintendent of public instruction for the purpose of receiving technical assistance in the final development of the plan.

School districts with one or more schools in a state or federal program of school improvement shall have their plans and activities reviewed and approved in conjunction with the state or federal program school improvement program requirements.

**Sec. 3.** RCW 28A.210.010 and 1971 c 32 s 1 are each amended to read as follows:

The state board of health, after consultation with the superintendent of public instruction, shall adopt reasonable rules ((~~and regulations~~)) regarding the presence of persons on or about any school premises who have, or who have been exposed to, contagious diseases deemed by the state board of health as dangerous to the public health. Such rules ((~~and regulations~~)) shall specify reasonable and precautionary procedures as to such presence and/or readmission of such persons and may include the requirement for a certificate from a licensed physician that there is no danger of contagion. The superintendent of public instruction shall ((~~print and distribute the~~)) provide to appropriate school officials and personnel, access and notice of these rules ((~~and regulations~~)) of the state board of health ((~~above provided to appropriate school officials and personnel~~)). Providing online access to these rules satisfies the requirements of this section. The superintendent of public instruction is required to provide this notice only when there are significant changes to the rules.

**Sec. 4.** RCW 28A.210.040 and 1990 c 33 s 189 are each amended to read as follows:

The superintendent of public instruction shall ((~~print and distribute~~)) provide access to appropriate school officials the rules ((~~and regulations~~)) adopted by the state board of health pursuant to RCW 28A.210.020 and the recommended records and forms to be used in making and reporting such screenings. Providing online access to the materials satisfies the requirements of this section.

**Sec. 5.** RCW 28A.210.080 and 2007 c 276 s 1 are each amended to read as follows:

(1) The attendance of every child at every public and private school in the state and licensed day care center shall be conditioned upon the presentation before or on each child's first day of attendance at a particular school or center, of proof of either (a) full immunization, (b) the initiation of and compliance with a schedule of immunization, as required by rules of the state board of health, or (c) a certificate of exemption as provided for in RCW 28A.210.090. The attendance at the school or the day care center during any subsequent school year of a child who has initiated a schedule of immunization shall be conditioned upon the presentation of proof of compliance with the schedule on the child's first day of attendance during the subsequent school year. Once proof of full immunization or proof of completion of an approved schedule has been presented, no further proof shall be required as a condition to attendance at the particular school or center.

(2)(a) Beginning with sixth grade entry, every public and private school in the state shall provide parents and guardians with access to information about meningococcal disease and its vaccine at the beginning of every school year. Providing online access to the information satisfies the requirements of this section unless a parent or guardian specifically requests information to be provided in written form. The information about meningococcal disease shall include:

(i) Its causes and symptoms, how meningococcal disease is spread, and the places where parents and guardians may obtain additional information and vaccinations for their children; and

(ii) Current recommendations from the United States centers for disease control and prevention regarding the receipt of vaccines for meningococcal disease and where the vaccination can be received.

(b) This subsection shall not be construed to require the department of health or the school to provide meningococcal vaccination to students.

(c) The department of health shall prepare the informational materials and shall consult with the office of superintendent of public instruction.

(d) This subsection does not create a private right of action.

(3)(a) Beginning with sixth grade entry, every public school in the state shall provide parents and guardians with access to information about human papillomavirus disease and its vaccine at the beginning of every school year. Providing online access to the information satisfies the requirements of this section unless a parent or guardian specifically requests information to be provided in written form. The information about human papillomavirus disease shall include:

(i) Its causes and symptoms, how human papillomavirus disease is spread, and the places where parents and guardians may obtain additional information and vaccinations for their children; and

(ii) Current recommendations from the United States centers for disease control and prevention regarding the receipt of vaccines for human papillomavirus disease and where the vaccination can be received.

(b) This subsection shall not be construed to require the department of health or the school to provide human papillomavirus vaccination to students.

(c) The department of health shall prepare the informational materials and shall consult with the office of the superintendent of public instruction.

(d) This subsection does not create a private right of action.

(4) Private schools are required by state law to notify parents that information on the human papillomavirus disease prepared by the department of health is available.

**Sec. 6.** RCW 28A.225.005 and 1992 c 205 s 201 are each amended to read as follows:

Each school within a school district shall inform the students and the parents of the students enrolled in the school about the compulsory education requirements under this chapter. The school shall ((~~distribute~~)) provide access to the information at least annually. Providing online access to the information satisfies the requirements of this section unless a parent or guardian specifically requests information to be provided in written form.

**Sec. 7.** RCW 28A.225.290 and 1990 1st ex.s. c 9 s 207 are each amended to read as follows:

(1) The superintendent of public instruction shall prepare and annually ((~~distribute an~~)) provide access to information ((~~booklet~~)) outlining parents' and guardians' enrollment options for their children. Providing online access to the information satisfies the requirements of this section unless a parent or guardian specifically requests information to be provided in written form.

(2) ((~~Before the 1991-92 school year, the booklet shall be distributed to all school districts by the office of the superintendent of public instruction. School districts shall have a copy of the information booklet available for public inspection at each school in the district, at the district office, and in public libraries~~)) School districts shall provide access to the information in this section to the public. Providing online access to the information satisfies the requirements of this subsection unless a parent or guardian specifically requests the information be provided in written form.

(3) The booklet shall include:

(a) Information about enrollment options and program opportunities, including but not limited to programs in RCW 28A.225.220, 28A.185.040, 28A.225.200 through 28A.225.215, 28A.225.230 through 28A.225.250, 28A.175.090, 28A.340.010 through 28A.340.070 (small high school cooperative projects), and 28A.335.160.

(b) Information about the running start - community college or vocational-technical institute choice program under RCW 28A.600.300 through ((~~28A.600.395~~)) 28A.600.390; and

(c) Information about the seventh and eighth grade choice program under RCW 28A.230.090.

**Sec. 8.** RCW 28A.225.300 and 1990 1st ex.s. c 9 s 208 are each amended to read as follows:

Each school district board of directors annually shall inform parents of the district's intradistrict and interdistrict enrollment options and parental involvement opportunities. Information on intradistrict enrollment options and interdistrict acceptance policies shall be provided to nonresidents on request. Providing online access to the information satisfies the requirements of this section unless a parent or guardian specifically requests information to be provided in written form.

**Sec. 9.** RCW 28A.230.095 and 2006 c 113 s 2 are each amended to read as follows:

(1) By the end of the 2008-09 school year, school districts shall have in place in elementary schools, middle schools, and high schools assessments or other strategies chosen by the district to assure that students have an opportunity to learn the essential academic learning requirements in social studies, the arts, and health and fitness. Social studies includes history, geography, civics, economics, and social studies skills. Beginning with the 2008-09 school year, school districts shall annually submit an implementation verification report to the office of the superintendent of public instruction. The office of the superintendent of public instruction may not require school districts to use a classroom-based assessment in social studies, the arts, and health and fitness to meet the requirements of this section and shall clearly communicate to districts their option to use other strategies chosen by the district.

(2) Beginning with the 2008-09 school year, school districts shall require students in ((~~the fourth or fifth grades [grade],~~)) the seventh or eighth ((~~grades [grade]~~)) grade, and the eleventh or twelfth ((~~grades [grade]~~)) grade to each complete at least one classroom-based assessment in civics. Beginning with the 2010-11 school year, school districts shall require students in the fourth or fifth grade to complete at least one classroom-based assessment in civics. The civics assessment may be selected from a list of classroom-based assessments approved by the office of the superintendent of public instruction. Beginning with the 2008-09 school year, school districts shall annually submit implementation verification reports to the office of the superintendent of public instruction documenting the use of the classroom-based assessments in civics.

(3) Verification reports shall require school districts to report only the information necessary to comply with this section.

**Sec. 10.** RCW 28A.230.125 and 2006 c 263 s 401 and 2006 c 115 s 6 are each reenacted and amended to read as follows:

(1) The superintendent of public instruction, in consultation with the higher education coordinating board, the state board for community and technical colleges, and the workforce training and education coordinating board, shall develop for use by all public school districts a standardized high school transcript. The superintendent shall establish clear definitions for the terms "credits" and "hours" so that school programs operating on the quarter, semester, or trimester system can be compared.

(2) The standardized high school transcript shall include a notation of whether the student has earned a certificate of individual achievement or a certificate of academic achievement.

((~~(3) Transcripts are important documents to students who will apply for admission to postsecondary institutions of higher education. Transcripts are also important to students who will seek employment upon or prior to graduation from high school. It is recognized that student transcripts may be the only record available to employers in their decision-making processes regarding prospective employees. The superintendent of public instruction shall require school districts to inform annually all high school students that prospective employers may request to see transcripts and that the prospective employee's decision to release transcripts can be an important part of the process of applying for employment.~~))

**Sec. 11.** RCW 28A.300.040 and 2006 c 263 s 104 are each amended to read as follows:

In addition to any other powers and duties as provided by law, the powers and duties of the superintendent of public instruction shall be:

(1) To have supervision over all matters pertaining to the public schools of the state;

(2) To report to the governor and the legislature such information and data as may be required for the management and improvement of the schools;

(3) To prepare and have printed such forms, registers, courses of study, rules for the government of the common schools, and such other material and books as may be necessary for the discharge of the duties of teachers and officials charged with the administration of the laws relating to the common schools, and to distribute the same to educational service district superintendents;

(4) To travel, without neglecting his or her other official duties as superintendent of public instruction, for the purpose of attending educational meetings or conventions, of visiting schools, and of consulting educational service district superintendents or other school officials;

(5) To prepare and from time to time to revise a manual of the Washington state common school code, copies of which shall be ((~~provided in such numbers as determined by the superintendent of public instruction at no cost to those public agencies within the common school system~~)) made available online and which shall be sold at approximate actual cost of publication and distribution per volume to ((~~all other~~)) public and nonpublic agencies or individuals, said manual to contain Titles 28A and 28C RCW, rules related to the common schools, and such other matter as the state superintendent or the state board of education shall determine. Proceeds of the sale of such code shall be transmitted to the public printer who shall credit the state superintendent's account within the state printing plant revolving fund by a like amount;

(6) To file all papers, reports and public documents transmitted to the superintendent by the school officials of the several counties or districts of the state, each year separately. Copies of all papers filed in the superintendent's office, and the superintendent's official acts, may, or upon request, shall be certified by the superintendent and attested by the superintendent's official seal, and when so certified shall be evidence of the papers or acts so certified to;

(7) To require annually, on or before the 15th day of August, of the president, manager, or principal of every educational institution in this state, a report as required by the superintendent of public instruction; and it is the duty of every president, manager, or principal, to complete and return such forms within such time as the superintendent of public instruction shall direct;

(8) To keep in the superintendent's office a record of all teachers receiving certificates to teach in the common schools of this state;

(9) To issue certificates as provided by law;

(10) To keep in the superintendent's office at the capital of the state, all books and papers pertaining to the business of the superintendent's office, and to keep and preserve in the superintendent's office a complete record of statistics, as well as a record of the meetings of the state board of education;

(11) With the assistance of the office of the attorney general, to decide all points of law which may be submitted to the superintendent in writing by any educational service district superintendent, or that may be submitted to the superintendent by any other person, upon appeal from the decision of any educational service district superintendent; and the superintendent shall publish his or her rulings and decisions from time to time for the information of school officials and teachers; and the superintendent's decision shall be final unless set aside by a court of competent jurisdiction;

(12) To administer oaths and affirmations in the discharge of the superintendent's official duties;

(13) To deliver to his or her successor, at the expiration of the superintendent's term of office, all records, books, maps, documents and papers of whatever kind belonging to the superintendent's office or which may have been received by the superintendent's for the use of the superintendent's office;

(14) To administer family services and programs to promote the state's policy as provided in RCW 74.14A.025;

(15) To promote the adoption of school-based curricula and policies that provide quality, daily physical education for all students, and to encourage policies that provide all students with opportunities for physical activity outside of formal physical education classes;

(16) To perform such other duties as may be required by law.

**Sec. 12.** RCW 28A.300.118 and 2000 c 126 s 1 are each amended to read as follows:

(1) Beginning with the ((~~2000-01~~)) 2011-12 school year, the superintendent of public instruction shall notify senior high schools and any other public school that includes ninth grade of the names and contact information of public and private entities offering programs leading to college credit, including information about online advanced placement classes, if the superintendent has knowledge of such entities and if the cost of reporting these entities is minimal.

(2) Beginning with the ((~~2000-01~~)) 2011-12 school year, each senior high school and any other public school that includes ninth grade shall publish annually and deliver to each parent with children enrolled in ninth through twelfth grades, information concerning the entrance requirements and the availability of programs in the local area that lead to college credit, including classes such as advanced placement, running start, tech-prep, skill centers, college in the high school, and international baccalaureate programs. The information may be included with other information the school regularly mails to parents. In addition, each senior high school and any other public school that includes ninth grade shall enclose information of the names and contact information of other public or private entities offering such programs, including online advanced placement programs, to its ninth through twelfth grade students if the school has knowledge of such entities.

**Sec. 13.** RCW 28A.300.525 and 2008 c 297 s 2 are each amended to read as follows:

(1) The superintendent of public instruction shall provide an annual aggregate report to the legislature on the educational experiences and progress of students in children's administration out- of-home care. This data should be disaggregated in the smallest units allowable by law that do not identify an individual student, in order to learn which school districts are experiencing the greatest success and challenges in achieving quality educational outcomes with students in children's administration out-of-home care.

(2) This section is suspended until July 1, 2011.

**Sec. 14.** RCW 28A.320.165 and 2001 c 333 s 4 are each amended to read as follows:

Schools as defined in RCW 17.21.415 shall provide notice of pesticide use to parents or guardians of students and employees pursuant to chapter 17.21 RCW, upon the request of the parent or guardian.

**Sec. 15.** RCW 28A.320.180 and 2007 c 396 s 11 are each amended to read as follows:

(1) Subject to funding appropriated for this purpose and beginning in the fall of 2009, school districts shall provide all high school students enrolled in the district the option of taking the mathematics college readiness test developed under RCW 28B.10.679 once at no cost to the students. Districts shall encourage, but not require, students to take the test in their junior or senior year of high school.

(2) Subject to funding appropriated for this purpose, the office of the superintendent of public instruction shall reimburse each district for the costs incurred by the district in providing students the opportunity to take the mathematics placement test.

(3) This section is suspended until July 1, 2011.

**Sec. 16.** RCW 28A.600.160 and 1998 c 225 s 2 are each amended to read as follows:

Any middle school, junior high school, or high school using educational pathways shall ensure that all participating students will continue to have access to the courses and instruction necessary to meet admission requirements at baccalaureate institutions. Students shall be allowed to enter the educational pathway of their choice. Before accepting a student into an educational pathway, the school shall inform the student's parent of the pathway chosen, the opportunities available to the student through the pathway, and the career objectives the student will have exposure to while pursuing the pathway. Providing online access to the information satisfies the requirements of this section unless a parent or guardian specifically request information to be provided in written form. Parents and students dissatisfied with the opportunities available through the selected educational pathway shall be provided with the opportunity to transfer the student to any other pathway provided in the school. Schools may not develop educational pathways that retain students in high school beyond the date they are eligible to graduate, and may not require students who transfer between pathways to complete pathway requirements beyond the date the student is eligible to graduate. Educational pathways may include, but are not limited to, programs such as work-based learning, ((~~school-to-work transition,~~)) tech prep, ((~~vocational-technical~~)) career and technical education, running start, and preparation for technical college, community college, or university education.

**Sec. 17.** RCW 28A.655.061 and 2008 c 321 s 2 are each amended to read as follows:

(1) The high school assessment system shall include but need not be limited to the Washington assessment of student learning, opportunities for a student to retake the content areas of the assessment in which the student was not successful, and if approved by the legislature pursuant to subsection (10) of this section, one or more objective alternative assessments for a student to demonstrate achievement of state academic standards. The objective alternative assessments for each content area shall be comparable in rigor to the skills and knowledge that the student must demonstrate on the Washington assessment of student learning for each content area.

(2) Subject to the conditions in this section, a certificate of academic achievement shall be obtained by most students at about the age of sixteen, and is evidence that the students have successfully met the state standard in the content areas included in the certificate. With the exception of students satisfying the provisions of RCW 28A.155.045 or 28A.655.0611, acquisition of the certificate is required for graduation from a public high school but is not the only requirement for graduation.

(3) Beginning with the graduating class of 2008, with the exception of students satisfying the provisions of RCW 28A.155.045, a student who meets the state standards on the reading, writing, and mathematics content areas of the high school Washington assessment of student learning shall earn a certificate of academic achievement. If a student does not successfully meet the state standards in one or more content areas required for the certificate of academic achievement, then the student may retake the assessment in the content area up to four times at no cost to the student. If the student successfully meets the state standards on a retake of the assessment then the student shall earn a certificate of academic achievement. Once objective alternative assessments are authorized pursuant to subsection (10) of this section, a student may use the objective alternative assessments to demonstrate that the student successfully meets the state standards for that content area if the student has taken the Washington assessment of student learning at least once. If the student successfully meets the state standards on the objective alternative assessments then the student shall earn a certificate of academic achievement.

(4) Beginning no later than with the graduating class of 2013, a student must meet the state standards in science in addition to the other content areas required under subsection (3) of this section on the Washington assessment of student learning or the objective alternative assessments in order to earn a certificate of academic achievement. The state board of education may adopt a rule that implements the requirements of this subsection (4) beginning with a graduating class before the graduating class of 2013, if the state board of education adopts the rule by September 1st of the freshman school year of the graduating class to which the requirements of this subsection (4) apply. The state board of education's authority under this subsection (4) does not alter the requirement that any change in performance standards for the tenth grade assessment must comply with RCW 28A.305.130.

(5) The state board of education may not require the acquisition of the certificate of academic achievement for students in home-based instruction under chapter 28A.200 RCW, for students enrolled in private schools under chapter 28A.195 RCW, or for students satisfying the provisions of RCW 28A.155.045.

(6) A student may retain and use the highest result from each successfully completed content area of the high school assessment.

(7) School districts must make available to students the following options:

(a) To retake the Washington assessment of student learning up to four times in the content areas in which the student did not meet the state standards if the student is enrolled in a public school; or

(b) To retake the Washington assessment of student learning up to four times in the content areas in which the student did not meet the state standards if the student is enrolled in a high school completion program at a community or technical college. The superintendent of public instruction and the state board for community and technical colleges shall jointly identify means by which students in these programs can be assessed.

(8) Students who achieve the standard in a content area of the high school assessment but who wish to improve their results shall pay for retaking the assessment, using a uniform cost determined by the superintendent of public instruction.

(9) Opportunities to retake the assessment at least twice a year shall be available to each school district.

(10)(a) The office of the superintendent of public instruction shall develop options for implementing objective alternative assessments, which may include an appeals process for students' scores, for students to demonstrate achievement of the state academic standards. The objective alternative assessments shall be comparable in rigor to the skills and knowledge that the student must demonstrate on the Washington assessment of student learning and be objective in its determination of student achievement of the state standards. Before any objective alternative assessments in addition to those authorized in RCW 28A.655.065 or (b) of this subsection are used by a student to demonstrate that the student has met the state standards in a content area required to obtain a certificate, the legislature shall formally approve the use of any objective alternative assessments through the omnibus appropriations act or by statute or concurrent resolution.

(b)(i) A student's score on the mathematics, reading or English, or writing portion of the ((~~scholastic assessment test~~ ))SAT((~~,~~)) or the ((~~American college test (~~))ACT((~~,~~)) may be used as an objective alternative assessment under this section for demonstrating that a student has met or exceeded the state standards for the certificate of academic achievement. The state board of education shall identify the scores students must achieve on the relevant portion of the SAT or ACT to meet or exceed the state standard in the relevant content area on the Washington assessment of student learning. The state board of education shall identify the first scores by December 1, 2007. After the first scores are established, the state board may increase but not decrease the scores required for students to meet or exceed the state standards.

(ii) Until August 31, 2008, a student's score on the mathematics portion of the ((~~preliminary scholastic assessment~~

~~test (~~))PSAT((~~)~~)) may be used as an objective alternative assessment under this section for demonstrating that a student has met or exceeded the state standard for the certificate of academic achievement. The state board of education shall identify the score students must achieve on the mathematics portion of the PSAT to meet or exceed the state standard in that content area on the Washington assessment of student learning.

(iii) A student who scores at least a three on the grading scale of one to five for selected AP examinations may use the score as an objective alternative assessment under this section for demonstrating that a student has met or exceeded state standards for the certificate of academic achievement. A score of three on the AP examinations in calculus or statistics may be used as an alternative assessment for the mathematics portion of the Washington assessment of student learning. A score of three on the AP examinations in English language and composition may be used as an alternative assessment for the writing portion of the Washington assessment of student learning. A score of three on the AP examinations in English literature and composition, macroeconomics, microeconomics, psychology, United States history, world history, United States government and politics, or comparative government and politics may be used as an alternative assessment for the reading portion of the Washington assessment of student learning.

(11) By December 15, 2004, the house of representatives and senate education committees shall obtain information and conclusions from recognized, independent, national assessment experts regarding the validity and reliability of the high school Washington assessment of student learning for making individual student high school graduation determinations.

(((~~(12) To help assure continued progress in academic achievement as a foundation for high school graduation and to assure that students are on track for high school graduation, each school district shall prepare plans for and notify students and their parents or legal guardians as provided in this subsection (12).~~

~~(a) Student learning plans are required for eighth through twelfth grade students who were not successful on any or all of the content areas of the Washington assessment for student learning during the previous school year or who may not be on track to graduate due to credit deficiencies or absences. The parent or legal guardian shall be notified about the information in the student learning plan, preferably through a parent conference and at least annually. To the extent feasible, schools serving English language learner students and their parents shall translate the plan into the primary language of the family. The plan shall include the following information as applicable:~~

~~(i) The student's results on the Washington assessment of student learning;~~

~~(ii) If the student is in the transitional bilingual program, the score on his or her Washington language proficiency test II;~~

~~(iii) Any credit deficiencies;~~

~~(iv) The student's attendance rates over the previous two years;~~

~~(v) The student's progress toward meeting state and local graduation requirements;~~

~~(vi) The courses, competencies, and other steps needed to be taken by the student to meet state academic standards and stay on track for graduation;~~

~~(vii) Remediation strategies and alternative education options available to students, including informing students of the option to continue to receive instructional services after grade twelve or until the age of twenty-one;~~

~~(viii) The alternative assessment options available to students under this section and RCW 28A.655.065;~~

~~(ix) School district programs, high school courses, and career and technical education options available for students to meet graduation requirements; and~~

~~(x) Available programs offered through skill centers or community and technical colleges.~~

~~(b) All fifth grade students who were not successful in one or more of the content areas of the fourth grade Washington assessment of student learning shall have a student learning plan.~~

~~(i) The parent or guardian of the student shall be notified, preferably through a parent conference, of the student's results on the Washington assessment of student learning, actions the school intends to take to improve the student's skills in any content area in which the student was unsuccessful, and provide strategies to help them improve their student's skills.~~

~~(ii) Progress made on the student plan shall be reported to the student's parents or guardian at least annually and adjustments to the plan made as necessary.~~))

**Sec. 18.** RCW 28A.655.075 and 2007 c 396 s 16 are each amended to read as follows:

(1) Within funds specifically appropriated therefor, by December 1, 2008, the superintendent of public instruction shall develop essential academic learning requirements and grade level expectations for educational technology literacy and technology fluency that identify the knowledge and skills that all public school students need to know and be able to do in the areas of technology and technology literacy. The development process shall include a review of current standards that have been developed or are used by other states and national and international technology associations. To the maximum extent possible, the superintendent shall integrate goal four and the knowledge and skill areas in the other goals in the technology essential academic learning requirements.

(a) As used in this section, "technology literacy" means the ability to responsibly, creatively, and effectively use appropriate technology to communicate; access, collect, manage, integrate, and evaluate information; solve problems and create solutions; build and share knowledge; and improve and enhance learning in all subject areas and experiences.

(b) Technology fluency builds upon technology literacy and is demonstrated when students: Apply technology to real-world experiences; adapt to changing technologies; modify current and create new technologies; and personalize technology to meet personal needs, interests, and learning styles.

(2)(a) Within funds specifically appropriated therefor, the superintendent shall obtain or develop education technology assessments that may be administered in the elementary, middle, and high school grades to assess the essential academic learning requirements for technology. The assessments shall be designed to be classroom or project-based so that they can be embedded in classroom instruction and be administered and scored by school staff throughout the regular school year using consistent scoring criteria and procedures. By the 2010-11 school year, these assessments shall be made available to school districts for the districts' voluntary use. If a school district uses the assessments created under this section, then the school district shall notify the superintendent of public instruction of the use. The superintendent shall report annually to the legislature on the number of school districts that use the assessments each school year.

(b) Beginning December 1, 2010, and annually thereafter, the superintendent of public instruction shall provide a report to the relevant legislative committees regarding the use of the assessments.

(3) This section is suspended until July 1, 2011.

**Sec. 19.** RCW 17.21.415 and 2001 c 333 s 3 are each amended to read as follows:

(1) As used in this section, "school" means a licensed day care center or a public kindergarten or a public elementary or secondary school.

(2) A school shall provide written notification ((~~annually or upon enrollment~~)), upon request, to parents or guardians of students and employees describing the school's pest control policies and methods, including the posting and notification requirements of this section.

(3) A school shall establish a notification system that, as a minimum, notifies interested parents or guardians of students and employees at least forty-eight hours before a pesticide application to a school facility. The notification system shall include posting of the notification in a prominent place in the main office of the school.

(4) All notifications to parents, guardians, and employees shall include the heading "Notice: Pesticide Application" and, at a minimum, shall state:

(a) The product name of the pesticide to be applied;

(b) The intended date and time of application;

(c) The location to which the pesticide is to be applied;

(d) The pest to be controlled; and

(e) The name and phone number of a contact person at the school.

(5) A school facility application must be made within forty-eight hours following the intended date and time stated in the notification or the notification process shall be repeated.

(6) A school shall, at the time of application, post notification signs for all pesticide applications made to school facilities unless the application is otherwise required to be posted by a certified applicator under the provisions of RCW 17.21.410(1)(d).

(a) Notification signs for applications made to school grounds by school employees shall be placed at the location of the application and at each primary point of entry to the school grounds. The signs shall be a minimum of four inches by five inches and shall include the words: "THIS LANDSCAPE HAS BEEN RECENTLY SPRAYED OR TREATED WITH PESTICIDES BY YOUR SCHOOL" as the headline and "FOR MORE INFORMATION PLEASE CALL" as the footer. The footer shall provide the name and telephone number of a contact person at the school.

(b) Notification signs for applications made to school facilities other than school grounds shall be posted at the location of the application. The signs shall be a minimum of eight and one-half by eleven inches and shall include the heading "Notice: Pesticide Application" and, at a minimum, shall state:

(i) The product name of the pesticide applied;

(ii) The date and time of application;

(iii) The location to which the pesticide was applied;

(iv) The pest to be controlled; and

(v) The name and phone number of a contact person at the school.

(c) Notification signs shall be printed in colors contrasting to the background.

(d) Notification signs shall remain in place for at least twenty-four hours from the time the application is completed. In the event the pesticide label requires a restricted entry interval greater than twenty-four hours, the notification sign shall remain in place consistent with the restricted entry interval time as required by the label.

(7) A school facility application does not include the application of antimicrobial pesticides or the placement of insect or rodent baits that are not accessible to children.

(8) The prenotification requirements of this section do not apply if the school facility application is made when the school is not occupied by students for at least two consecutive days after the application.

(9) The prenotification requirements of this section do not apply to any emergency school facility application for control of any pest that poses an immediate human health or safety threat, such as an application to control stinging insects. When an emergency school facility application is made, notification consistent with the school's notification system shall occur as soon as possible after the application. The notification shall include information consistent with subsection (6)(b) of this section.

(10) A school shall make the records of all pesticide applications to school facilities required under this chapter, including an annual summary of the records, readily accessible to interested persons.

(11) A school is not liable for the removal of signs by unauthorized persons. A school that complies with this section may not be held liable for personal property damage or bodily injury resulting from signs that are placed as required.

**Sec. 20.** RCW 28A.650.015 and 2006 c 263 s 917 are each amended to read as follows:

(1) The superintendent of public instruction, to the extent funds are appropriated, shall develop and implement a Washington state K-12 education technology plan. The technology plan shall be updated on at least a biennial basis, shall be developed to coordinate and expand the use of education technology in the common schools of the state. The plan shall be consistent with applicable provisions of chapter 43.105 RCW. The plan, at a minimum, shall address:

(a) The provision of technical assistance to schools and school districts for the planning, implementation, and training of staff in the use of technology in curricular and administrative functions;

(b) The continued development of a network to connect school districts, institutions of higher learning, and other sources of online information; and

(c) Methods to equitably increase the use of education technology by students and school personnel throughout the state.

(2) The superintendent of public instruction shall appoint an educational technology advisory committee to assist in the development and implementation of the technology plan in subsection (1) of this section. The committee shall include, but is not limited to, persons representing: The department of information services, educational service districts, school directors, school administrators, school principals, teachers, classified staff, higher education faculty, parents, students, business, labor, scientists and mathematicians, the higher education coordinating board, the workforce training and education coordinating board, and the state library.

(3) The plan adopted and implemented under this section may not impose on school districts any requirements that are not specifically required by federal law or regulation, including requirements to maintain eligibility for the federal schools and libraries program of the universal service fund.

**Sec. 21.** RCW 28A.210.020 and 1971 c 32 s 2 are each amended to read as follows:

Every board of school directors shall have the power, and it shall be its duty to provide for and require screening for the visual and auditory acuity of all children attending schools in their districts to ascertain which if any of such children have defects sufficient to retard them in their studies. Auditory and visual screening shall be made in accordance with procedures and standards adopted by rule or regulation of the state board of health. Prior to the adoption or revision of such rules or regulations the state board of health shall seek the recommendations of the superintendent of public instruction regarding the administration of visual and auditory screening and the qualifications of persons competent to administer such screening. Persons performing visual screening may include, but are not limited to, ophthalmologists, optometrists, or opticians who donate their professional services to schools or school districts.

NEW SECTION. **Sec. 22.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed:

22.1.1.1. RCW 28A.220.050 (Information on proper use of left-hand lane) and 1986 c 93 s 4;

22.1.1.2. RCW 28A.220.080 (Information on motorcycle awareness) and 2007 c 97 s 4 & 2004 c 126 s 1;

22.1.1.3. RCW 28A.220.085 (Information on driving safely among bicyclists and pedestrians) and 2008 c 125 s 4;

22.1.1.4. RCW 28A.230.092 (Washington state history and government-- Course content) and 2008 c 190 s 2;

22.1.1.5. RCW 28A.230.185 (Family preservation education program) and 2005 c 491 s 2;

22.1.1.6. RCW 28A.300.412 (Washington civil liberties public education program--Report) and 2000 c 210 s 6;

22.1.1.7. RCW 28A.600.415 (Alternatives to suspension--Community service encouraged--Information provided to school districts) and 1992 c 155 s 2;

22.1.1.8. RCW 28A.625.010 (Short title) and 1995 c 335 s 107, 1990 c 33 s 513, & 1986 c 147 s 1;

22.1.1.9. RCW 28A.625.020 (Recipients--Awards) and 1991 c 255 s 1;

22.1.1.10. RCW 28A.625.030 (Washington State Christa McAuliffe award for teachers) and 1991 c 255 s 2 & 1986 c 147 s 3;

22.1.1.11. RCW 28A.625.042 (Certificates--Recognition awards) and 1994 c 279 s 4;

22.1.1.12. RCW 28A.625.050 (Rules) and 1995 c 335 s 108, 1991 c 255 s 8, 1990 c 33 s 516, 1988 c 251 s 2, & 1986 c 147 s 5;

22.1.1.13. RCW 28A.625.350 (Short title) and 1990 1st ex.s. c 10 s 1;

22.1.1.14. RCW 28A.625.360 (Excellence in teacher preparation award) and 2006 c 263 s 804 & 1990 1st ex.s. c 10 s 2;

22.1.1.15. RCW 28A.625.370 (Award for teacher educator) and 2006 c 263 s 820 & 1990 1st ex.s. c 10 s 3;

22.1.1.16. RCW 28A.625.380 (Rules) and 2006 c 263 s 821 & 1990 1st ex.s. c 10 s 4;

22.1.1.17. RCW 28A.625.390 (Educational grant--Eligibility--Award) and 2006 c 263 s 822 & 1990 1st ex.s. c 10 s 5;

22.1.1.18. RCW 28A.625.900 (Severability--1990 1st ex.s. c 10) and 1990 1st ex.s. c 10 s 10;

22.1.1.19. RCW 28A.630.045 (Local control and flexibility in assessments--Pilot project) and 2006 c 175 s 1; and

22.1.1.20. RCW 28A.630.881 (School-to-work transition project--Findings-- Intent--Outreach--Technical assistance) and 1997 c 58 s 304.

NEW SECTION. **Sec. 23.** Sections 13, 15, and 18 of this act expire July 1, 2011."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator McAuliffe moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5889 and ask the House to recede therefrom.

The President declared the question before the Senate to be motion by Senator McAuliffe that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5889 and ask the House to recede therefrom.

The motion by Senator McAuliffe carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5889 and asked the House to recede therefrom by voice vote.

MOTION

At 6:38 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Wednesday, April 22, 2009.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate