FIFTY FOURTH DAY

MORNING SESSION

Senate Chamber, Olympia, Friday, March 5, 2010

The Senate was called to order at 8:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Fairley, Holmquist, McCaslin, Pridemore and Zarelli.

The Sergeant at Arms Color Guard consisting of Pages Christian Sanchez and Sarabeth Mullins, presented the Colors. Pastor Erik Wilson-Weiberg of Ballard First Lutheran Church offered the prayer.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

March 3, 2010

SB 6339 Prime Sponsor, Senator Hobbs: Concerning a sales and use tax exemption for wax and ceramic materials used to create molds for ferrous and nonferrous investment castings. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6339 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hobbs; Honeyford; Keiser; Kohl-Welles; McDermott; Murray; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 3, 2010

SB 6609 Prime Sponsor, Senator Kastama: Concerning infrastructure financing for local governments. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 6609 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore; Regala and Rockefeller.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Brandland; Carrell; Honeyford; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

March 3, 2010

SB 6614 Prime Sponsor, Senator Pridemore: Clarifying the applicability of business and occupation tax to conservation programs with the Bonneville power administration. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6614 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; Brandland; Carrell; Fairley; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 3, 2010

SB 6846 Prime Sponsor, Senator Brandland: Concerning enhanced 911 emergency communications services. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6846 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; Brandland; Fairley; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Parlette; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senator Carrell.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli and Schoesler.

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

March 4, 2010

MR. PRESIDENT:
The Speaker has signed:
ENGROSSED SENATE BILL 5041,
SUBSTITUTE SENATE BILL 5046,
ENGROSSED SENATE BILL 5516,
SENATE BILL 5582,
SECOND ENGROSSED SENATE BILL 5617,
SUBSTITUTE SENATE BILL 6197,
SUBSTITUTE SENATE BILL 6211,
SUBSTITUTE SENATE BILL 6213,
SENATE BILL 6227,
SENATE BILL 6229,
SUBSTITUTE SENATE BILL 6239,

SUBSTITUTE SENATE BILL 6251,
SUBSTITUTE SENATE BILL 6271,
SUBSTITUTE SENATE BILL 6273,
SENATE BILL 6275,
ENGROSSED SUBSTITUTE SENATE BILL 6286,
ENGROSSED SENATE BILL 6287,
SENATE BILL 6288
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:
The Speaker has signed: ,
ENGROSSED SUBSTITUTE SENATE BILL 6241,
SUBSTITUTE SENATE BILL 6357,
SUBSTITUTE SENATE BILL 6414,
ENGROSSED SUBSTITUTE SENATE BILL 6499,
ENGROSSED SUBSTITUTE SENATE BILL 6522,
SUBSTITUTE SENATE BILL 6556,
SENATE BILL 6627,
SENATE BILL 6745,
SUBSTITUTE SENATE BILL 6831
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:
The Speaker has signed: ,
SENATE BILL 6297,
SUBSTITUTE SENATE BILL 6298,
SUBSTITUTE SENATE BILL 6299,
ENGROSSED SUBSTITUTE SENATE BILL 6306,
SUBSTITUTE SENATE BILL 6337,
SENATE BILL 6365,
SUBSTITUTE SENATE BILL 6367,
SUBSTITUTE SENATE BILL 6371,
SUBSTITUTE SENATE BILL 6395,
SUBSTITUTE SENATE BILL 6398,
SENATE BILL 6450,
SENATE BILL 6467,
SUBSTITUTE SENATE BILL 6524,
SENATE BILL 6543,
SENATE BILL 6546,
SUBSTITUTE SENATE BILL 6584,
SUBSTITUTE SENATE BILL 6591,
SUBSTITUTE SENATE BILL 6634,
SUBSTITUTE SENATE BILL 6674,
SUBSTITUTE SENATE BILL 6749,
SENATE JOINT MEMORIAL 8026
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:
The Speaker has signed:
SUBSTITUTE SENATE BILL 6544,
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:
The House has passed:
ENGROSSED SUBSTITUTE HOUSE BILL 3132,
ENGROSSED SUBSTITUTE HOUSE BILL 3182
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:
The House has passed:
SENATE BILL 6218,
SENATE BILL 6219,
SUBSTITUTE SENATE BILL 6329,
SUBSTITUTE SENATE BILL 6363,
SENATE BILL 6418,
SENATE JOINT MEMORIAL 8025
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING OF HOUSE BILLS

ESHB 3178 by House Committee on Ways & Means (originally sponsored by Representatives Carlyle, Anderson, Hunter, Rolfes, Eddy, Takko, Probst, Wallace, Maxwell, Van De Wege, Kelley, Green, Sullivan, Hudgins, Hope, Morrell, Springer, Ericks, Hunt, Goodman, Jacks and Finn)

AN ACT Relating to creating efficiencies in the use of technology in state government; amending RCW 43.88.560, 43.105.041, 43.105.180, and 43.105.160; adding new sections to chapter 43.105 RCW; adding a new section to chapter 43.88 RCW; adding a new section to chapter 2.68 RCW; adding a new section to chapter 44.68 RCW; creating new sections; repealing RCW 43.105.017; and providing an expiration date.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, the measure listed on the Introduction and First Reading report was referred to the committee as designated.

MOTION

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

SECOND READING

HOUSE BILL NO. 3007, by Representatives Upthegrove, Orwall, Williams and Wallace

Authorizing airport operators to make airport property available at less than fair market rental value for public recreational or other community uses.

The measure was read the second time.

MOTION

On motion of Senator Haugen, the rules were suspended, House Bill No. 3007 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Haugen spoke in favor of passage of the bill.

MOTION

On motion of Senator Marr, Senators Fairley, Hargrove and Pridemore were excused.

MOTION

On motion of Senator Brandland, Senators Benton, Holmquist, McCaslin, Pflug and Swecker were excused.

The President declared the question before the Senate to be the final passage of House Bill No. 3007.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3007 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 1; Absent, 1; Excused, 4.

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

Voting nay: Senator Tom

Absent: Senator Zarelli

Excused: Senators Fairley, Holmquist, McCaslin and Pridemore

HOUSE BILL NO. 3007, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Brandland, Senator Zarelli was excused.

SECOND READING

HOUSE BILL NO. 2748, by Representatives Simpson, Jacks and Chase

Concerning dues paid to the Washington public ports association by port districts.

The measure was read the second time.

MOTION

On motion of Senator Oemig, the rules were suspended, House Bill No. 2748 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of House Bill No. 2748.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2748 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

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

Excused: Senators Fairley, Holmquist, McCaslin, Pridemore and Zarelli

HOUSE BILL NO. 2748, 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. 2443, by House Committee on Health Care & Wellness (originally sponsored by Representatives Ericksen, Cody and Morrell)

Conforming the uniform controlled substances act to existing state and federal law.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 2443 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2443.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2443 and the bill passed the Senate 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, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Ranker, Regala, Roach,

Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, Holmquist, McCaslin and Pridemore

SUBSTITUTE HOUSE BILL NO. 2443, 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 9:03 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 10:45 a.m. by President Owen.

MOTION

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

MOTION

Senator Keiser moved adoption of the following resolution:

SENATE RESOLUTION
8703

By Senators Keiser, Franklin, Marr, Parlette, Becker, Kastama, Gordon, Rockefeller, Hobbs, Kline, Fraser, Kohl-Welles, Jacobsen, Kilmer, Morton, and King

WHEREAS, Mary Selecky is a leader who has served with distinction, both as the Secretary of the Washington State Department of Health for the past eleven years, and as President of the Association of State and Territorial Health Officers for two terms; and

WHEREAS, In both of her leadership roles, Secretary Selecky has advanced the goals of public health at both the state and national level through dedication, vision, and inspiring contributions; and

WHEREAS, Secretary Selecky's contributions include a commitment to increasing childhood immunization rates, preventing communicable disease, developing standards for public health performance, promoting chronic disease prevention, and assuring safe health professional standards; and

WHEREAS, Over the last nine years, under her leadership, the state's tobacco control program has reduced the number of youth smokers by 50 percent and has steadily reduced the number of adult smokers, giving the state the sixth lowest smoking rate in the nation; and

WHEREAS, Today the State of Washington is well-prepared to respond to emergencies, with an incident command structure being used effectively across the state; and

WHEREAS, During widespread storm and flood emergencies of 2007 and 2009, the Department of Health quickly communicated to citizens about ways to ensure safe drinking water, stop the spread of disease, and watch for signs of carbon monoxide poisoning; and

WHEREAS, The state of Washington is regarded as a model for cooperation between state and tribal authorities in the interests of emergency preparedness and pandemic flu planning; and

WHEREAS, Throughout her career, as a champion of public health, Mary Selecky has remained steadfast in her commitment to partnerships with local public health authorities and to her connection to rural communities, always listening to what people really need and how things actually work;

NOW, THEREFORE, BE IT RESOLVED, That the Senate recognize and honor Washington State Secretary of Health Mary Selecky, as the 2010 recipient of the American Medical Association's Nathan Davis Award for Outstanding Government Service, in recognition and gratitude for her tireless efforts on behalf of the health care needs of American citizens; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Secretary of Health Mary Selecky.

Senators Keiser, Franklin, Sheldon, King, Morton and Honeyford spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8703.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Secretary of the Department of Health, Mary Selecky who was seated in the gallery.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced employees from the Department of Health, Terry Bergener, Brian Peyton, Allene Mares, Marie Flake, Dennis Dennis, John Erickson, Karen Jensen, Tim Church, Gregg Grunenfelder and Michelle Davis who were seated in the gallery.

MOTION

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

MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:
The House has passed:

SUBSTITUTE HOUSE BILL NO. 2488

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

THIRD READING

SECOND SUBSTITUTE HOUSE BILL NO. 1761, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Hasegawa, Appleton and Hurst).

Addressing the ethical use of legislative web sites.

The bill was read on Third Reading.

PARLIAMENTARY INQUIRY

Senator McDermott: "What motion would I need to make to roll back to second reading?"

REPLY BY THE PRESIDENT

President Owen: "You would say something like, 'Mr. President, I move that the rules be suspended, Second Substitute House Bill No. 1761 be returned to second reading for the purpose of an amendment,' if you so desire."

MOTION

On motion of Senator McDermott, the rules were suspended and Second Substitute House Bill No. 1761 was returned to second reading for the purpose of amendment.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1761, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Hasegawa, Appleton and Hurst)

Addressing the ethical use of legislative web sites.

The measure was read the second time.

MOTION

Senator Honeyford moved that the following amendment by Senators Honeyford and Regala be adopted:

On page 2, line 25, after "purposes", strike all material through "well" on line 27

Renumber the sections consecutively and correct any internal references accordingly.

Senators Honeyford and Regala spoke in favor of adoption of the amendment.

POINT OF INQUIRY

Senator Benton: "Would Senator Honeyford yield to a question? Senator Honeyford, it seems to me the underlying bill would allow us to continue to be posted on the website, but this provision removes the language of the underlying bill. I'm not sure I understand exactly what you're trying to get at with this amendment. Perhaps you could explain it with a little more clarity. Are you saying that stuff on the website could not then be printed and used and passed out during a campaign? Is that what you're trying to get out of here? And, if so, I think that's a noble cause but it seems to me it's a little confusing, at least the effect statement here is a little confusing. So maybe you help clarify for me?"

Senator Honeyford: "Thank you Senator. We all have materials prepared. You have your updates, you have your end of session reports, all of those kinds of things and all the various products that come out here. There prepared at state expense by caucus staff, generally. Printed at government expense. And what this says, you can't use that for campaign materials. That's all the purpose of this amendment is. That you do not use those for campaign materials. You can use them on their website. You can use them that way. There's no prohibition, I guess, if someone wanted to print them off the website at your own expense but this just makes it clear that you cannot use state-produced materials for campaign purposes."

Senator Roach spoke against adoption of the amendment.

POINT OF INQUIRY

Senator Carrell: "Would Senator Honeyford yield to a question? Does this mean then that we cannot use material from the website but somebody who maybe opposes one of us could use that material or is it a prohibition against anybody from using the material that might be on a website?"

Senator Honeyford: "Well, thank you for the question. I'm not sure how to answer that. What the amendment does say is it strikes out that these materials are not subject to election year restrictions and it strikes that out and so I would believe that documents that are produced by the state and printed by the state would be prohibited."

The President declared the question before the Senate to be the adoption of the amendment by Senators Honeyford and Regala on page 2, line 25 to Second Substitute House Bill No. 1761.

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

MOTION

On motion of Senator McDermott, the rules were suspended, Second Substitute House Bill No. 1761 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McDermott and Honeyford spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1761 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1761 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 41; Nays, 7; Absent, 0; Excused, 1.

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

Voting nay: Senators Becker, Brandland, Holmquist, Parlette, Pflug, Schoesler and Stevens

Excused: Senator McCaslin

SECOND SUBSTITUTE HOUSE BILL NO. 1761 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2867, by House Committee on Ways & Means (originally sponsored by Representatives Kagi, Sells, White, Hunt, Chase, Kessler, Morrell, Van De Wege, Kenney and Hasegawa)

Promoting early learning.

The measure was read the second time.

MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Early Learning & K-12 Education be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.215.005 and 2007 c 415 s 1 are each amended to read as follows:

(1) The legislature recognizes that:

(a) Parents are their children's first and most important teachers and decision makers;

(b) Research across disciplines now demonstrates that what happens in the earliest years makes a critical difference in children's readiness to succeed in school and life;

(c) Washington's competitiveness in the global economy requires a world-class education system that starts early and supports life-long learning;

(d) Washington state currently makes substantial investments in voluntary child care and early learning services and supports, but because services are fragmented across multiple state agencies, and early learning providers lack the supports and incentives needed to improve the quality of services they provide, many parents have difficulty accessing high quality early learning services;

(e) A more cohesive and integrated voluntary early learning system would result in greater efficiencies for the state, increased partnership between the state and the private sector, improved access to high quality early learning services, and better employment and early learning outcomes for families and all children.

(2) The legislature finds that:

(a) The early years of a child's life are critical to the child's healthy brain development and that the quality of caregiving during the early years can significantly impact the child's intellectual, social, and emotional development;

(b) A successful outcome for every child obtaining a K-12 education depends on children being prepared from birth for academic and social success in school. For children at risk of school failure, the achievement gap often emerges as early as eighteen months of age;

(c) There currently is a shortage of high quality services and supports for children ages birth to three and their parents and caregivers; and

(d) Increasing the availability of high quality services for children ages birth to three and their parents and caregivers will result in improved school and life outcomes.

(3) Therefore, the legislature intends to establish a robust birth-to-three continuum of services for parents and caregivers of young children in order to provide education and support regarding the importance of early childhood development.

((~~(3)~~)) (4) The purpose of this chapter is:

(a) To establish the department of early learning;

(b) To coordinate and consolidate state activities relating to child care and early learning programs;

(c) To safeguard and promote the health, safety, and well-being of children receiving child care and early learning assistance, which is paramount over the right of any person to provide care;

(d) To provide tools to promote the hiring of suitable providers of child care by:

(i) Providing parents with access to information regarding child care providers;

(ii) Providing parents with child care licensing action histories regarding child care providers; and

(iii) Requiring background checks of applicants for employment in any child care facility licensed or regulated under current law;

(e) To promote linkages and alignment between early learning programs and elementary schools and support the transition of children and families from prekindergarten environments to kindergarten;

(f) To promote the development of a sufficient number and variety of adequate child care and early learning facilities, both public and private; and

(g) To license agencies and to assure the users of such agencies, their parents, the community at large and the agencies themselves that adequate minimum standards are maintained by all child care and early learning facilities.

((~~(4)~~)) (5) This chapter does not expand the state's authority to license or regulate activities or programs beyond those licensed or regulated under existing law.

Sec. 2. RCW 43.215.020 and 2007 c 394 s 5 are each amended to read as follows:

(1) The department of early learning is created as an executive branch agency. The department is vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law.

(2) The primary duties of the department are to implement state early learning policy and to coordinate, consolidate, and integrate child care and early learning programs in order to administer programs and funding as efficiently as possible. The department's duties include, but are not limited to, the following:

(a) To support both public and private sectors toward a comprehensive and collaborative system of early learning that serves parents, children, and providers and to encourage best practices in child care and early learning programs;

(b) To make early learning resources available to parents and caregivers;

(c) To carry out activities, including providing clear and easily accessible information about quality and improving the quality of early learning opportunities for young children, in cooperation with the nongovernmental private-public partnership;

(d) To administer child care and early learning programs;

(e) To standardize internal financial audits, oversight visits, performance benchmarks, and licensing criteria, so that programs can function in an integrated fashion;

(f) To support the implementation of the nongovernmental private-public partnership and cooperate with that partnership in pursuing its goals including providing data and support necessary for the successful work of the partnership;

(g) To work cooperatively and in coordination with the early learning council;

(h) To collaborate with the K-12 school system at the state and local levels to ensure appropriate connections and smooth transitions between early learning and K-12 programs; ((~~and~~))

(i) To develop a comprehensive birth-to-three plan to provide education and support through a continuum of options including, but not limited to, services such as: Home visiting; quality incentives for infant and toddler child care subsidies; quality improvements for family home and center-based child care programs serving infants and toddlers; professional development; early literacy programs; and informal supports for family, friend, and neighbor caregivers;

(j) Upon the development of an early learning information system, to make available to parents timely inspection and licensing action information through the internet and other means.

(3) The department's programs shall be designed in a way that respects and preserves the ability of parents and legal guardians to

direct the education, development, and upbringing of their children, and that recognizes and honors cultural and linguistic diversity. The department shall include parents and legal guardians in the development of policies and program decisions affecting their children.

NEW SECTION. **Sec. 3.** The department of early learning, in collaboration with the early learning nongovernmental private-public partnership and the early learning advisory council, shall develop a birth-to-three plan, including recommended appropriation levels, and report to the appropriate committees of the legislature and the governor by December 1, 2010. The plan and recommendations required under this section shall be developed within existing resources."

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

MOTION

On motion of Senator Becker, Senator Holmquist was excused.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Early Learning & K-12 Education to Second Substitute House Bill No. 2867.

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

MOTION

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

On page 1, line 1 of the title, after "learning;" strike the remainder of the title and insert "amending RCW 43.215.005 and 43.215.020; and creating a new section."

MOTION

On motion of Senator McAuliffe, the rules were suspended, Second Substitute House Bill No. 2867 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

POINT OF INQUIRY

Senator Benton: "Would Senator McAuliffe yield to a question? Thank you Senator. Could you tell me does this bill have any requirements for the government to be involved. It seems if the government is going to be involved in children's learning before kindergarten then I'd like to know if there is any requirements. Is it may or a shall? I mean are we requiring parents to register their children or to be involved in pre-kindergarten training of some sort in this legislation?"

Senator McAuliffe: "No, you're not. It is a voluntary system of learning for all families. Voluntary. No requirement."

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2867 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2867 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 2; Absent, 2; Excused, 2.

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

Voting nay: Senators Carrell and Stevens

Absent: Senators Hargrove and Rockefeller

Excused: Senators Holmquist and McCaslin

SECOND SUBSTITUTE HOUSE BILL NO. 2867 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Marr, Senators Fraser, Hargrove, Prentice and Rockefeller were excused.

SECOND READING

HOUSE BILL NO. 2973, by Representatives Orcutt, Wallace, Herrera, Probst, McCune, Klippert, Kelley, Hunter, Kretz, Campbell and Johnson

Creating resident student classifications for certain members of the military and their spouses and dependents.

The measure was read the second time.

MOTION

On motion of Senator Kilmer, the rules were suspended, House Bill No. 2973 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kilmer and Becker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2973.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2973 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Fraser, McCaslin and Prentice

HOUSE BILL NO. 2973, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Ben Hoover, the son of Mike Hoover, Senate Counsel who was seated at the rostrum.

PERSONAL PRIVILEGE

Senator Keiser: "It happens that my youngest son's is also here today and it has always been a bit of a challenge to participate in his birthday as we are almost always at some important cutoff down here at the time. Thank you Mr. President."

REPLY BY THE PRESIDENT

President Owen: "Well, you could always bring him up here."

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2731, by House Committee on Ways & Means (originally sponsored by Representatives Goodman, Haler, Maxwell, Priest, Kagi, Sullivan, Seaquist, Quall, O'Brien, Jacks, Haigh, Pedersen, Darneille, Kenney, Rolfes, Hunter, Williams, Orwall, Liias, Carlyle, Roberts, Simpson, Walsh, Nelson, Kelley, Dickerson, Appleton, Eddy, Sells and Morrell)

Creating an early learning program for educationally at-risk children.

The measure was read the second time.

MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Ways & Means be not adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that children who participate in high quality preschool programs have improved educational and life outcomes and are more likely to graduate from high school and pursue higher education, experience successful employment opportunities, and have increased earnings. Therefore, the legislature intends to create an entitlement to a program of early learning to protect the current levels of funding for comprehensive preschool programs for three and four-year old children beginning September 1, 2011.

The legislature also finds that the state early childhood education and assistance program was established to help children from low-income families be prepared for kindergarten, and that the program has been a successful model for achieving that goal. Therefore, the legislature intends that implementing a program of early learning shall be accomplished by using the program standards and eligibility criteria in the early childhood education and assistance program.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.215 RCW to read as follows:

(1) An early learning program is established, beginning September 1, 2011, to provide preschool opportunities for children three and four years of age. The program shall be implemented by using the program standards and eligibility criteria in the early childhood education and assistance program under RCW 43.215.405. Participation in the program is voluntary. On a space-available basis, the program may allow enrollment of children who are not otherwise eligible by assessing a fee.

(2)(a) The program shall be implemented in phases, with the goal that full implementation be achieved in the 2017-18 school year.

(b) For an initial phase of an early learning program in school years 2011-12 and 2012-13, the number of slots for the early learning program shall not be less than the number of slots for three and four-year old children served in comprehensive preschool programs during the 2009-2011 biennium.

(c) Funding shall continue to be phased in incrementally each year until full statewide implementation of the early learning program is achieved.

(3) By December 1, 2010, the department shall report to the governor and the appropriate committees of legislature with recommendations for:

(a) Implementing an early learning program; and

(b) Renaming the early childhood education and assistance program to reflect the new early learning program.

(4) Beginning December 1, 2012, the department of early learning and the office of financial management shall annually review the caseload forecasts for the early learning program and report to the governor and the appropriate committees of the legislature with recommendations for phasing in additional funding to achieve the goal of full statewide implementation.

Sec. 3. RCW 43.215.405 and 2006 c 265 s 210 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903.

(1) "Advisory committee" means the advisory committee under RCW 43.215.420.

(2) "Department" means the department of early learning.

(3) "Eligible child" means a child at least three years of age and not eligible for kindergarten whose family income is at or below one hundred ten percent of the federal poverty level, as published annually by the federal department of health and human services, and includes a child whose family is eligible for public assistance, and who is not a participant in a federal or state program providing comprehensive services and may include children who are eligible under rules adopted by the department if the number of such children equals not more than ten percent of the total enrollment in the early childhood program. Priority for enrollment shall be given to children from families with the lowest income, children in foster care, or to eligible children from families with multiple needs.

(4) "Approved programs" means those state-supported education and special assistance programs which are recognized by the department as meeting the minimum program rules adopted by the department to qualify under RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903 and are designated as eligible for funding by the department under RCW 43.215.430 and 43.215.440.

(5) "Comprehensive" means an assistance program that focuses on the needs of the child and includes education, health, and family support services.

(6) "Family support services" means providing opportunities for parents to:

(a) Actively participate in their child's early childhood program;

(b) Increase their knowledge of child development and parenting skills;

(c) Further their education and training;

(d) Increase their ability to use needed services in the community;

(e) Increase their self-reliance.

Sec. 4. RCW 43.215.425 and 1994 c 166 s 6 are each amended to read as follows:

The department shall adopt rules under chapter 34.05 RCW for the administration of the early childhood program. Approved early childhood programs shall conduct needs assessments of their service area, identify any targeted groups of children, to include but not be limited to children of seasonal and migrant farmworkers and native American populations living either on or off reservation, and provide to the department a service delivery plan, to the extent practicable, that addresses these targeted populations.

The department in developing rules for the early childhood program shall consult with the advisory committee, and shall consider such factors as coordination with existing head start and other early childhood programs, the preparation necessary for instructors, qualifications of instructors, adequate space and equipment, ((~~and~~)) special transportation needs, and technical assistance to providers. The rules shall specifically require the early childhood programs to provide for parental involvement in participation with their child's program, in local program policy decisions, in development and revision of service delivery systems, and in parent education and training. The rules shall include a method for allowing, on a space-available basis, enrollment of children who are not otherwise eligible by assessing fees.

Sec. 5. RCW 43.215.020 and 2007 c 394 s 5 are each amended to read as follows:

(1) The department of early learning is created as an executive branch agency. The department is vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law.

(2) The primary duties of the department are to implement state early learning policy and to coordinate, consolidate, and integrate child care and early learning programs in order to administer programs and funding as efficiently as possible. The department's duties include, but are not limited to, the following:

(a) To support both public and private sectors toward a comprehensive and collaborative system of early learning that serves parents, children, and providers and to encourage best practices in child care and early learning programs;

(b) To make early learning resources available to parents and caregivers;

(c) To carry out activities, including providing clear and easily accessible information about quality and improving the quality of early learning opportunities for young children, in cooperation with the nongovernmental private-public partnership;

(d) To administer child care and early learning programs;

(e) To standardize internal financial audits, oversight visits, performance benchmarks, and licensing criteria, so that programs can function in an integrated fashion;

(f) To support the implementation of the nongovernmental private-public partnership and cooperate with that partnership in pursuing its goals including providing data and support necessary for the successful work of the partnership;

(g) To work cooperatively and in coordination with the early learning council;

(h) To collaborate with the K-12 school system at the state and local levels to ensure appropriate connections and smooth transitions between early learning, including an early learning program established in section 2 of this act, and K-12 programs; ((~~and~~))

(i) To develop and implement an early learning program established in section 2 of this act; and

(j) Upon the development of an early learning information system, to make available to parents timely inspection and licensing action information through the internet and other means.

(3) The department's programs shall be designed in a way that respects and preserves the ability of parents and legal guardians to direct the education, development, and upbringing of their children. The department shall include parents and legal guardians in the development of policies and program decisions affecting their children.

NEW SECTION. **Sec. 6.** A new section is added to chapter 28A.320 RCW to read as follows:

For an early learning program established in section 2 of this act, school districts:

(1) Shall work cooperatively with program providers to coordinate the transition from preschool to kindergarten so that children and their families are well-prepared and supported; and

(2) May contract with the department of early learning to deliver services under the program."

On page 1, line 1 of the title, after "for" strike the remainder of the title and insert "children; amending RCW 43.215.405, 43.215.425, and 43.215.020; adding a new section to chapter 43.215 RCW; adding a new section to chapter 28A.320 RCW; and creating a new section."

The President declared the question before the Senate to be the motion by Senator McAuliffe to not adopt the committee striking amendment by the Committee on Ways & Means to Second Substitute House Bill No. 2731.

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

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that children who participate in high quality preschool programs have improved educational and life outcomes and are more likely to graduate from high school and pursue higher education, experience successful employment opportunities, and have increased earnings. Therefore, the legislature intends to create an entitlement to a program of early learning to protect the current levels of funding for comprehensive preschool programs for three and four-year old children.

The legislature also finds that the state early childhood education and assistance program was established to help children from low-income families be prepared for kindergarten, and that the program has been a successful model for achieving that goal. Therefore, the legislature intends that implementing a program of early learning shall be accomplished by using the program standards and eligibility criteria in the early childhood education and assistance program.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.215 RCW to read as follows:

(1) An early learning program is established, beginning September 1, 2011, to provide preschool opportunities for children three and four years of age. The program shall be implemented by using the program standards and eligibility criteria in the early childhood education and assistance program under RCW 43.215.405. Participation in the program is voluntary.

(2)(a) For an initial phase of an early learning program in school years 2011-12 and 2012-13, the number of slots for the early learning program shall not be less than the number of slots for three and four- year old children served in the early childhood education and assistance program during the 2009-2011 biennium.

(b) Funding shall continue to be phased in incrementally each year until full statewide implementation of the early learning program is achieved.

(3) Beginning December 1, 2010, the department shall report annually to the governor and the appropriate committees of the legislature. The first report shall include, but not be limited to:

(a) Recommendations for implementing an early learning program;

(b) A review of relevant early learning programs in Washington and other states; and

(c) Recommendations for renaming the early childhood education and assistance program to reflect the new early learning program.

(4) Beginning December 1, 2012, the department of early learning and the office of financial management shall annually review the caseload forecasts for the early learning program and report to the governor and the appropriate committees of the legislature with recommendations for phasing in additional funding to achieve the goal of full statewide implementation.

Sec. 3. RCW 43.215.405 and 2006 c 265 s 210 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903.

(1) "Advisory committee" means the advisory committee under RCW 43.215.420.

(2) "Department" means the department of early learning.

(3) "Eligible child" means a child at least three years of age and not eligible for kindergarten whose family income is at or below one hundred ten percent of the federal poverty level, as published annually by the federal department of health and human services, and includes a child whose family is eligible for public assistance, and who is not a participant in a federal or state program providing comprehensive services, and ((~~may include children who are eligible under rules adopted by the department if the number of such children equals not more than ten percent of the total enrollment in the early childhood program~~)) a child with disabilities who qualifies for funds in accordance with part B of the federal individuals with disabilities education act and any other federal or state laws relating to the provision of special education services. Priority for enrollment shall be given to children from families with the lowest income, children in foster care, or to eligible children from families with multiple needs.

(4) "Approved programs" means those state-supported education and special assistance programs which are recognized by the department as meeting the minimum program rules adopted by the department to qualify under RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903 and are designated as eligible for funding by the department under RCW 43.215.430 and 43.215.440.

(5) "Comprehensive" means an assistance program that focuses on the needs of the child and includes education, health, and family support services.

(6) "Family support services" means providing opportunities for parents to:

(a) Actively participate in their child's early childhood program;

(b) Increase their knowledge of child development and parenting skills;

(c) Further their education and training;

(d) Increase their ability to use needed services in the community;

(e) Increase their self-reliance.

Sec. 4. RCW 43.215.425 and 1994 c 166 s 6 are each amended to read as follows:

The department shall adopt rules under chapter 34.05 RCW for the administration of the early childhood program. Approved early childhood programs shall conduct needs assessments of their service area, identify any targeted groups of children, to include but not be limited to children of seasonal and migrant farmworkers and native American populations living either on or off reservation, and provide to the department a service delivery plan, to the extent practicable, that addresses these targeted populations.

The department in developing rules for the early childhood program shall consult with the advisory committee, and shall consider such factors as coordination with existing head start and other early childhood programs, the preparation necessary for instructors, qualifications of instructors, adequate space and equipment, ((~~and~~)) special transportation needs, and technical assistance to providers. The rules shall specifically require the early childhood programs to provide for parental involvement in participation with their child's program, in local program policy decisions, in development and revision of service delivery systems, and in parent education and training.

Sec. 5. RCW 43.215.020 and 2007 c 394 s 5 are each amended to read as follows:

(1) The department of early learning is created as an executive branch agency. The department is vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law.

(2) The primary duties of the department are to implement state early learning policy and to coordinate, consolidate, and integrate child care and early learning programs in order to administer programs and funding as efficiently as possible. The department's duties include, but are not limited to, the following:

(a) To support both public and private sectors toward a comprehensive and collaborative system of early learning that serves parents, children, and providers and to encourage best practices in child care and early learning programs;

(b) To make early learning resources available to parents and caregivers;

(c) To carry out activities, including providing clear and easily accessible information about quality and improving the quality of early learning opportunities for young children, in cooperation with the nongovernmental private-public partnership;

(d) To administer child care and early learning programs;

(e) To standardize internal financial audits, oversight visits, performance benchmarks, and licensing criteria, so that programs can function in an integrated fashion;

(f) To support the implementation of the nongovernmental private-public partnership and cooperate with that partnership in pursuing its goals including providing data and support necessary for the successful work of the partnership;

(g) To work cooperatively and in coordination with the early learning council;

(h) To collaborate with the K-12 school system at the state and local levels to ensure appropriate connections and smooth transitions between early learning, including an early learning program established in section 2 of this act, and K-12 programs; ((~~and~~))

(i) To develop and implement an early learning program established in section 2 of this act; and

(j) Upon the development of an early learning information system, to make available to parents timely inspection and licensing action information through the internet and other means.

(3) The department's programs shall be designed in a way that respects and preserves the ability of parents and legal guardians to direct the education, development, and upbringing of their children. The department shall include parents and legal guardians in the development of policies and program decisions affecting their children.

NEW SECTION. **Sec. 6.** A new section is added to chapter 28A.320 RCW to read as follows:

For an early learning program established in section 2 of this act, school districts:

(1) Shall work cooperatively with program providers to coordinate the transition from preschool to kindergarten so that children and their families are well-prepared and supported; and

(2) May contract with the department of early learning to deliver services under the program."

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

MOTION

Senator Zarelli moved that the following amendment by Senator Zarelli to the striking amendment be adopted:

On page 1, line 8, after "create" strike "an entitlement to"

Senators Zarelli, Pflug, King, Honeyford, Benton, Parlette and Carrell spoke in favor of adoption of the amendment to the striking amendment.

Senators McAuliffe, Kauffman, Brown and Franklin spoke against adoption of the amendment to the striking amendment.

MOTION

On motion of Senator Brandland Senator Holmquist was excused.

The President declared the question before the Senate to be the adoption of the amendment by Senator Zarelli on page 1, line 8 to the striking amendment to Second Substitute House Bill No. 2731.

The motion by Senator Zarelli failed and the amendment to the striking amendment was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator McAuliffe to Second Substitute House Bill No. 2731.

The motion by Senator McAuliffe 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 "for" strike the remainder of the title and insert "children; amending RCW 43.215.405, 43.215.425, and 43.215.020; adding a new section to chapter 43.215 RCW; adding a new section to chapter 28A.320 RCW; and creating a new section."

MOTION

On motion of Senator McAuliffe, the rules were suspended, Second Substitute House Bill No. 2731 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe, Kauffman spoke in favor of passage of the bill.

Senators Zarelli, King, Stevens spoke against passage of the bill.

POINT OF ORDER

Senator Eide: "I believe the fine lady is over stepping the bounds of etiquette on the floor."

REPLY BY THE PRESIDENT

President Owen: "She is correct Senator, your remarks should be pointed solely at the merits or demerits of the bill."

MOTION

Senator Eide demanded that the previous question be put.

The President declared that at least two additional senators joined the demand and the demand was sustained.

The President declared the question before the Senate to be the motion of Senator Eide, "Shall the main question be now put?"

The motion by Senator Eide that the previous question be put carried by voice vote.

PERSONAL PRIVILEGE

Senator Pflug: "Thank you Mr. President. I really would like to encourage the majority not to continue to do this when we clearly do not……"

POINT OF ORDER

Senator Eide: "Thank you Mr. President. I believe a point of personal privilege is something you speak about yourself and not the bill that's before us."

REPLY BY THE PRESIDENT

President Owen: "Senator Pflug, your remarks on a point of personal privilege should not reflect the actions of the body but those issues personal to you for whatever purpose."

PERSONAL PRIVILEGE

Senator Pflug: "Well, it is personal to me. I think that many of us have a lot of passion about some of these issues and I really would like to have an opportunity to express our view point."

POINT OF ORDER

Senator Brown: "The Senator is debating the motion to close debate. She is not taking a point of personal privilege, Mr. President, in my opinion. I would ask that you consider that and we could move on perhaps."

REPLY BY THE PRESIDENT

President Owen: "Senator Pflug, the President believes she is correct. You are discussing the issue that was just passed by the body."

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2731 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2731 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 29; Nays, 16; Absent, 0; Excused, 4.

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

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

Excused: Senators Fraser, Holmquist, McCaslin and Prentice

SECOND SUBSTITUTE HOUSE BILL NO. 2731 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, pursuant to Rule 46, the Committee on Ways & Means was granted special leave to meet during the day's session.

MOTION

At 12:00 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 2:21 p.m. by President Owen.

MOTION

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

MESSAGE FROM THE HOUSE

March 5, 2010

MR. PRESIDENT:
The Speaker has signed:
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1418,
SUBSTITUTE HOUSE BILL 1545,
HOUSE BILL 1576,
SUBSTITUTE HOUSE BILL 2403,
HOUSE BILL 2406,
SUBSTITUTE HOUSE BILL 2422,
HOUSE BILL 2428,
SUBSTITUTE HOUSE BILL 2429,
SUBSTITUTE HOUSE BILL 2546,
ENGROSSED SUBSTITUTE HOUSE BILL 2564,
HOUSE BILL 2575,
HOUSE BILL 2592,
SUBSTITUTE HOUSE BILL 2620,
SUBSTITUTE HOUSE BILL 2678,
SUBSTITUTE HOUSE BILL 2684,
HOUSE BILL 2707,
HOUSE BILL 2823,
HOUSE BILL 2877,
SUBSTITUTE HOUSE BILL 3145.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 5, 2010

MR. PRESIDENT:
The Speaker has signed:
SENATE BILL 6209,
SENATE BILL 6279,
SENATE BILL 6330,
SUBSTITUTE SENATE BILL 6341,
SENATE BILL 6453,
SENATE BILL 6487,
SUBSTITUTE SENATE BILL 6510,
SENATE BILL 6555,
SUBSTITUTE SENATE BILL 6558,
SUBSTITUTE SENATE BILL 6577,
SUBSTITUTE SENATE BILL 6816
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:
The Speaker has signed: ,
HOUSE BILL 1080,
SECOND ENGROSSED HOUSE BILL 1876,
ENGROSSED SUBSTITUTE HOUSE BILL 2399,
SUBSTITUTE HOUSE BILL 2430,
HOUSE BILL 2465,
HOUSE BILL 2490,
HOUSE BILL 2510,
SUBSTITUTE HOUSE BILL 2515,
HOUSE BILL 2521,
HOUSE BILL 2598,
SUBSTITUTE HOUSE BILL 2661,
ENGROSSED HOUSE BILL 2667,
SUBSTITUTE HOUSE BILL 2828,
HOUSE BILL 2858,
HOUSE BILL 2996,
SUBSTITUTE HOUSE BILL 3066
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:
The Speaker has signed:
HOUSE BILL 1541,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1560,
SECOND SUBSTITUTE HOUSE BILL 1591,
HOUSE BILL 2419,
SUBSTITUTE HOUSE BILL 2649,
HOUSE BILL 2740,
ENGROSSED HOUSE BILL 2830,
ENGROSSED HOUSE BILL 2831,
ENGROSSED SUBSTITUTE HOUSE BILL 2913,
SUBSTITUTE HOUSE BILL 2962
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:

The Speaker has signed: ,

ENGROSSED HOUSE BILL 1653,
SUBSTITUTE HOUSE BILL 1913,
SUBSTITUTE HOUSE BILL 2226,
SECOND SUBSTITUTE HOUSE BILL 2396,
SUBSTITUTE HOUSE BILL 2487,
SUBSTITUTE HOUSE BILL 2555,
ENGROSSED SUBSTITUTE HOUSE BILL 2560,
SUBSTITUTE HOUSE BILL 2585,
HOUSE BILL 2608,
SUBSTITUTE HOUSE BILL 2651,
SUBSTITUTE HOUSE BILL 2704,
SUBSTITUTE HOUSE BILL 2789,
ENGROSSED SUBSTITUTE HOUSE BILL 2842,
HOUSE BILL 2861,
ENGROSSED SUBSTITUTE HOUSE BILL 3032,
SUBSTITUTE HOUSE JOINT MEMORIAL 4004.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2939, by House Committee on Transportation (originally sponsored by Representatives Dammeier, Orwall, Parker, Probst, Morrell, Kessler, Smith and Kenney)

Concerning notations on driver abstracts that a person was not at fault in a motor vehicle accident.

The measure was read the second time.

MOTION

Senator Marr moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.52.130 and 2009 c 276 s 1 are each amended to read as follows:

(((1) A certified abstract of the driving record shall be furnished only to:

(a) The individual named in the abstract;

(b) An employer or prospective employer or an agent acting on behalf of an employer or prospective employer, or a volunteer organization for which the named individual has submitted an application for a position that could require the transportation of children under eighteen years of age, adults over sixty-five years of age, or persons with mental or physical disabilities;

(c) An employee or agent of a transit authority checking prospective volunteer vanpool drivers for insurance and risk management needs;

(d) The insurance carrier that has insurance in effect covering the employer or a prospective employer;

(e) The insurance carrier that has motor vehicle or life insurance in effect covering the named individual;

(f) The insurance carrier to which the named individual has applied;

(g) An alcohol/drug assessment or treatment agency approved by the department of social and health services, to which the named individual has applied or been assigned for evaluation or treatment;

(h) City and county prosecuting attorneys;

(i) State colleges, universities, or agencies for employment and risk management purposes; or units of local government authorized to self-insure under RCW 48.62.031; or

(j) An employer or prospective employer or volunteer organization, or an agent acting on behalf of an employer or prospective employer or volunteer organization, for employment purposes related to driving by an individual as a condition of that individual's employment or otherwise at the direction of the employer or organization.

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

(3) City attorneys and county prosecuting attorneys may provide the driving record to alcohol/drug assessment or treatment agencies approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment.

(4)(a) The director, upon proper request, shall furnish a certified abstract covering the period of not more than the last three years to insurance companies.

(b) The director may enter into a contractual agreement with an insurance company or its agent for the limited purpose of reviewing the driving records of existing policyholders for changes to the record during specified periods of time. The department shall establish a fee for this service, which must be deposited in the highway safety fund. The fee for this service must be set at a level that will not result in a net revenue loss to the state. Any information provided under this subsection must be treated in the same manner and subject to the same restrictions as certified abstracts.

(5) Upon proper request, the director shall furnish a certified abstract covering a period of not more than the last five years to state approved alcohol/drug assessment or treatment agencies, except that the certified abstract shall also include records of alcohol-related offenses as defined in RCW 46.01.260(2) covering a period of not more than the last ten years.

(6) Upon proper request, a certified abstract of the full driving record maintained by the department shall be furnished to a city or county prosecuting attorney, to the individual named in the abstract, to an employer or prospective employer or an agent acting on behalf of an employer or prospective employer of the named individual, or to a volunteer organization for which the named individual has submitted an application for a position that could require the transportation of children under eighteen years of age, adults over sixty-five years of age, or persons with physical or mental disabilities, or to an employee or agent of a transit authority checking prospective volunteer vanpool drivers for insurance and risk management needs.

(7) The abstract, whenever possible, shall include:

(a) An enumeration of motor vehicle accidents in which the person was driving;

(b) The total number of vehicles involved;

(c) Whether the vehicles were legally parked or moving;

(d) Whether the vehicles were occupied at the time of the accident;

~~(e) Whether the accident resulted in any fatality;~~

~~(f) Any reported convictions, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law;~~

~~(g) The status of the person's driving privilege in this state; and~~

~~(h) Any reports of failure to appear in response to a traffic citation or failure to respond to a notice of infraction served upon the named individual by an arresting officer.~~

~~(8) Certified abstracts furnished to prosecutors and alcohol/drug assessment or treatment agencies shall also indicate whether a recorded violation is an alcohol-related offense as defined in RCW 46.01.260(2) that was originally charged as one of the alcohol-related offenses designated in RCW 46.01.260(2)(b)(i).~~

~~(9) The abstract provided to the insurance company shall exclude any information, except that related to the commission of misdemeanors or felonies by the individual, pertaining to law enforcement officers or firefighters as defined in RCW 41.26.030, or any officer of the Washington state patrol, while driving official vehicles in the performance of occupational duty. The abstract provided to the insurance company shall include convictions for RCW 46.61.5249 and 46.61.525 except that the abstract shall report them only as negligent driving without reference to whether they are for first or second degree negligent driving. The abstract provided to the insurance company shall exclude any deferred prosecution under RCW 10.05.060, except that if a person is removed from a deferred prosecution under RCW 10.05.090, the abstract shall show the deferred prosecution as well as the removal.~~

~~(10) The director shall collect for each abstract the sum of ten dollars, fifty percent of which shall be deposited in the highway safety fund and fifty percent of which must be deposited according to RCW 46.68.038.~~

~~(11) Any insurance company or its agent receiving the certified abstract shall use it exclusively for its own underwriting purposes and shall not divulge any of the information contained in it to a third party. No policy of insurance may be canceled, nonrenewed, denied, or have the rate increased on the basis of such information unless the policyholder was determined to be at fault. No insurance company or its agent for underwriting purposes relating to the operation of commercial motor vehicles may use any information contained in the abstract relative to any person's operation of motor vehicles while not engaged in such employment, nor may any insurance company or its agent for underwriting purposes relating to the operation of noncommercial motor vehicles use any information contained in the abstract relative to any person's operation of commercial motor vehicles.~~

~~(12) Any employer or prospective employer or an agent acting on behalf of an employer or prospective employer, or a volunteer organization for which the named individual has submitted an application for a position that could require the transportation of children under eighteen years of age, adults over sixty-five years of age, or persons with physical or mental disabilities, receiving the certified abstract shall use it exclusively for his or her own purpose: (a) To determine whether the licensee should be permitted to operate a commercial vehicle or school bus, or operate a vehicle for a volunteer organization for purposes of transporting children under eighteen years of age, adults over sixty-five years of age, or persons with physical or mental disabilities, upon the public highways of this state; or (b) for employment purposes related to driving by an individual as a condition of that individual's employment or otherwise at the direction of the employer or organization, and shall not divulge any information contained in it to a third party.~~

~~(13) Any employee or agent of a transit authority receiving a certified abstract for its vanpool program shall use it exclusively for determining whether the volunteer licensee meets those insurance and risk management requirements necessary to drive a vanpool vehicle. The transit authority may not divulge any information contained in the abstract to a third party.~~

~~(14) Any alcohol/drug assessment or treatment agency approved by the department of social and health services receiving the certified abstract shall use it exclusively for the purpose of assisting its employees in making a determination as to what level of treatment, if any, is appropriate. The agency, or any of its employees, shall not divulge any information contained in the abstract to a third party.~~

~~(15) Release of a certified abstract of the driving record of an employee, prospective employee, or prospective volunteer requires a statement signed by: (a) The employee, prospective employee, or prospective volunteer that authorizes the release of the record, and (b) the employer or volunteer organization attesting that the information is necessary: (i) To determine whether the licensee should be employed to operate a commercial vehicle or school bus, or operate a vehicle for a volunteer organization for purposes of transporting children under eighteen years of age, adults over sixty-five years of age, or persons with physical or mental disabilities, upon the public highways of this state; or (ii) for employment purposes related to driving by an individual as a condition of that individual's employment or otherwise at the direction of the employer or organization. If the employer or prospective employer authorizes an agent to obtain this information on their behalf, this must be noted in the statement. This subsection does not apply to entities identified in subsection (1)(i) of this section.~~

~~(16) Any negligent violation of this section is a gross misdemeanor.~~

~~(17) Any intentional violation of this section is a class C felony.~~)) Upon a proper request, the department may furnish an abstract of a person's driving record as permitted under this section.

(1) **Contents of abstract of driving record.** An abstract of a person's driving record, whenever possible, must include:

(a) An enumeration of motor vehicle accidents in which the person was driving, including:

(i) The total number of vehicles involved;

(ii) Whether the vehicles were legally parked or moving;

(iii) Whether the vehicles were occupied at the time of the accident; and

(iv) Whether the accident resulted in a fatality;

(b) Any reported convictions, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law;

(c) The status of the person's driving privilege in this state; and

(d) Any reports of failure to appear in response to a traffic citation or failure to respond to a notice of infraction served upon the named individual by an arresting officer.

(2) **Release of abstract of driving record.** An abstract of a person's driving record may be furnished to the following persons or entities:

(a) **Named individuals.** (i) An abstract of the full driving record maintained by the department may be furnished to the individual named in the abstract.

(ii) Nothing in this section prevents a court from providing a copy of the driver's abstract to the individual named in the abstract, provided that the named individual has a pending or open infraction or criminal case in that court. A pending case includes criminal cases that have not reached a disposition by plea, stipulation, trial, or amended charge. An open infraction or criminal case includes cases on probation, payment agreement or subject to, or in collections. Courts may charge a reasonable fee for the production and copying of the abstract for the individual.

(b) **Employers or prospective employers.** (i) An abstract of the full driving record maintained by the department may be furnished to an employer or prospective employer or an agent acting on behalf of an employer or prospective employer of the named

individual for purposes related to driving by the individual as a condition of employment or otherwise at the direction of the employer.

(ii) Release of an abstract of the driving record of an employee or prospective employee requires a statement signed by: (A) The employee or prospective employee that authorizes the release of the record; and (B) the employer attesting that the information is necessary for employment purposes related to driving by the individual as a condition of employment or otherwise at the direction of the employer. If the employer or prospective employer authorizes an agent to obtain this information on their behalf, this must be noted in the statement.

(iii) Upon request of the person named in the abstract provided under this subsection, and upon that same person furnishing copies of court records ruling that the person was not at fault in a motor vehicle accident, the department must indicate on any abstract provided under this subsection that the person was not at fault in the motor vehicle accident.

(c) **Volunteer organizations.** (i) An abstract of the full driving record maintained by the department may be furnished to a volunteer organization or an agent for a volunteer organization for which the named individual has submitted an application for a position that would require driving by the individual at the direction of the volunteer organization.

(ii) Release of an abstract of the driving record of a prospective volunteer requires a statement signed by: (A) The prospective volunteer that authorizes the release of the record; and (B) the volunteer organization attesting that the information is necessary for purposes related to driving by the individual at the direction of the volunteer organization. If the volunteer organization authorizes an agent to obtain this information on their behalf, this must be noted in the statement.

(d) **Transit authorities.** An abstract of the full driving record maintained by the department may be furnished to an employee or agent of a transit authority checking prospective volunteer vanpool drivers for insurance and risk management needs.

(e) **Insurance carriers.** (i) An abstract of the driving record maintained by the department covering the period of not more than the last three years may be furnished to an insurance company or its agent:

(A) That has motor vehicle or life insurance in effect covering the named individual;

(B) To which the named individual has applied; or

(C) That has insurance in effect covering the employer or a prospective employer of the named individual.

(ii) The abstract provided to the insurance company must:

(A) Not contain any information related to actions committed by law enforcement officers or firefighters, as both terms are defined in RCW 41.26.030, or by Washington state patrol officers, while driving official vehicles in the performance of their occupational duty. This does not apply to any situation where the vehicle was used in the commission of a misdemeanor or felony;

(B) Include convictions under RCW 46.61.5249 and 46.61.525, except that the abstract must report the convictions only as negligent driving without reference to whether they are for first or second degree negligent driving; and

(C) Exclude any deferred prosecution under RCW 10.05.060, except that if a person is removed from a deferred prosecution under RCW 10.05.090, the abstract must show the deferred prosecution as well as the removal.

(iii) Any policy of insurance may not be canceled, nonrenewed, denied, or have the rate increased on the basis of information regarding an accident included in the abstract of a driving record, unless the policyholder was determined to be at fault.

(iv) Any insurance company or its agent, for underwriting purposes relating to the operation of commercial motor vehicles, may not use any information contained in the abstract relative to any person's operation of motor vehicles while not engaged in such employment. Any insurance company or its agent, for underwriting purposes relating to the operation of noncommercial motor vehicles, may not use any information contained in the abstract relative to any person's operation of commercial motor vehicles.

(v) The director may enter into a contractual agreement with an insurance company or its agent for the limited purpose of reviewing the driving records of existing policyholders for changes to the record during specified periods of time. The department shall establish a fee for this service, which must be deposited in the highway safety fund. The fee for this service must be set at a level that will not result in a net revenue loss to the state. Any information provided under this subsection must be treated in the same manner and is subject to the same restrictions as driving record abstracts.

(f) **Alcohol/drug assessment or treatment agencies.** An abstract of the driving record maintained by the department covering the period of not more than the last five years may be furnished to an alcohol/drug assessment or treatment agency approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment, for purposes of assisting employees in making a determination as to what level of treatment, if any, is appropriate, except that the abstract must:

(i) Also include records of alcohol-related offenses, as defined in RCW 46.01.260(2), covering a period of not more than the last ten years; and

(ii) Indicate whether an alcohol-related offense was originally charged as a violation of either RCW 46.61.502 or 46.61.504.

(g) **City attorneys and county prosecuting attorneys.** An abstract of the full driving record maintained by the department, including whether a recorded violation is an alcohol-related offense, as defined in RCW 46.01.260(2), that was originally charged as a violation of either RCW 46.61.502 or 46.61.504, may be furnished to city attorneys or county prosecuting attorneys. City attorneys and county prosecuting attorneys may provide the driving record to alcohol/drug assessment or treatment agencies approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment.

(h) **State colleges, universities, or agencies, or units of local government.** An abstract of the full driving record maintained by the department may be furnished to (i) state colleges, universities, or agencies for employment and risk management purposes or (ii) units of local government authorized to self-insure under RCW 48.62.031 for employment and risk management purposes.

(i) **Superintendent of public instruction.** An abstract of the full driving record maintained by the department may be furnished to the superintendent of public instruction for review of public school bus driver records. The superintendent or superintendent's designee may discuss information on the driving record with an authorized representative of the employing school district for employment and risk management purposes.

(3) **Release to third parties prohibited.** Any person or entity receiving an abstract of a person's driving record under subsection (2)(b) through (i) of this section shall use the abstract exclusively for his, her, or its own purposes or as otherwise expressly permitted under this section, and shall not divulge any information contained in the abstract to a third party.

(4) **Fee.** The director shall collect a ten-dollar fee for each abstract of a person's driving record furnished by the department. Fifty percent of the fee must be deposited in the highway safety fund, and fifty percent of the fee must be deposited according to

RCW 46.68.038.

(5) **Violation.** (a) Any negligent violation of this section is a gross misdemeanor.

(b) Any intentional violation of this section is a class C felony.

NEW SECTION. **Sec. 2.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2010, in the omnibus transportation appropriations act, this act is null and void.

NEW SECTION. **Sec. 3.** This act takes effect October 31, 2010."

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to Substitute House Bill No. 2939.

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

MOTION

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

On page 1, line 2 of the title, after "accident;" strike the remainder of the title and insert "amending RCW 46.52.130; creating a new section; prescribing penalties; and providing an effective date."

MOTION

On motion of Senator Marr, the rules were suspended, Substitute House Bill No. 2939 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Marr spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2939 as amended by the Senate

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2939 as amended by the Senate 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, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, 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 Brown and Pflug

Excused: Senators Holmquist and McCaslin

SUBSTITUTE HOUSE BILL NO. 2939 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Delvin, Senator Pflug was excused.

SIGNED BY THE PRESIDENT

The President Signed:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1418,
SUBSTITUTE HOUSE BILL 1545,
HOUSE BILL 1576,
SUBSTITUTE HOUSE BILL 2403,
HOUSE BILL 2406,
SUBSTITUTE HOUSE BILL 2422,
HOUSE BILL 2428,
SUBSTITUTE HOUSE BILL 2429,
ENGROSSED SUBSTITUTE HOUSE BILL 2496,
SUBSTITUTE HOUSE BILL 2546,
ENGROSSED SUBSTITUTE HOUSE BILL 2564,
HOUSE BILL 2575,
HOUSE BILL 2592,
SUBSTITUTE HOUSE BILL 2620,
SUBSTITUTE HOUSE BILL 2678,
SUBSTITUTE HOUSE BILL 2684,
HOUSE BILL 2707,
HOUSE BILL 2823,
HOUSE BILL 2877,
SUBSTITUTE HOUSE BILL 3145

MOTION

On motion of Senator Marr, Senator Brown was excused.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 3036, by House Committee on Education (originally sponsored by Representatives Quall, Kenney and Santos)

Requiring a public meeting before a school district contracts for nonvoter-approved debt.

The measure was read the second time.

MOTION

On motion of Senator McAuliffe, the rules were suspended, Substitute House Bill No. 3036 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 3036.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3036 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

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

Absent: Senator Prentice

Excused: Senators McCaslin and Pflug

SUBSTITUTE HOUSE BILL NO. 3036, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Marr, Senator Prentice was excused.

SIGNED BY THE PRESIDENT

The President signed:
HOUSE BILL 1080,
HOUSE BILL 1541,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1560,
SECOND SUBSTITUTE HOUSE BILL 1591,
ENGROSSED HOUSE BILL 1653,
SECOND ENGROSSED HOUSE BILL 1876,
SUBSTITUTE HOUSE BILL 1913,
SUBSTITUTE HOUSE BILL 2226,
SECOND SUBSTITUTE HOUSE BILL 2396,
ENGROSSED SUBSTITUTE HOUSE BILL 2399,
HOUSE BILL 2419,
SUBSTITUTE HOUSE BILL 2430,
HOUSE BILL 2465,
SUBSTITUTE HOUSE BILL 2487,
HOUSE BILL 2490,
HOUSE BILL 2510,
SUBSTITUTE HOUSE BILL 2515,
HOUSE BILL 2521,
SUBSTITUTE HOUSE BILL 2555,
ENGROSSED SUBSTITUTE HOUSE BILL 2560,
SUBSTITUTE HOUSE BILL 2585,
HOUSE BILL 2598,
HOUSE BILL 2608,
SUBSTITUTE HOUSE BILL 2649,
SUBSTITUTE HOUSE BILL 2651,
SUBSTITUTE HOUSE BILL 2661,
ENGROSSED HOUSE BILL 2667,
SUBSTITUTE HOUSE BILL 2704,
HOUSE BILL 2740,
SUBSTITUTE HOUSE BILL 2789,
SUBSTITUTE HOUSE BILL 2828,
ENGROSSED HOUSE BILL 2830,
ENGROSSED HOUSE BILL 2831,
ENGROSSED SUBSTITUTE HOUSE BILL 2842,
HOUSE BILL 2858,
HOUSE BILL 2861,
ENGROSSED SUBSTITUTE HOUSE BILL 2913,
SUBSTITUTE HOUSE BILL 2962,
HOUSE BILL 2996,
ENGROSSED SUBSTITUTE HOUSE BILL 3032,
SUBSTITUTE HOUSE BILL 3066,
SUBSTITUTE HOUSE JOINT MEMORIAL 4004

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3179, by House Committee on Finance (originally sponsored by Representatives Springer and Ericks)

Revising local excise tax provisions for counties and cities. Revised for 1st Substitute: Concerning local excise tax provisions for counties and cities.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 82.14.450 and 2009 c 551 s 1 are each amended to read as follows:

(1) A county legislative authority may submit an authorizing proposition to the county voters at a primary or general election and, if the proposition is approved by a majority of persons voting, impose a sales and use tax in accordance with the terms of this chapter. The title of each ballot measure must clearly state the purposes for which the proposed sales and use tax will be used. ((~~Funds raised under this tax shall not supplant existing funds used for these purposes, except as follows: Up to one hundred percent may be used to supplant existing funding in calendar year 2010; up to eighty percent may be used to supplant existing funding in calendar year 2011; up to sixty percent may be used to supplant existing funding in calendar year 2012; up to forty percent may be used to supplant existing funding in calendar year 2013; and up to twenty percent may be used to supplant existing funding in calendar year 2014. For purposes of this subsection, existing funds means the actual operating expenditures for the calendar year in which the ballot measure is approved by voters. Actual operating expenditures excludes lost federal funds, lost or expired state grants or loans, extraordinary events not likely to reoccur, changes in contract provisions beyond the control of the county or city receiving the services, and major nonrecurring capital expenditures.~~)) The rate of tax under this section may not exceed three-tenths of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(2)(a) A city legislative authority may submit an authorizing proposition to the city voters at a primary or general election and, if the proposition is approved by a majority of persons voting, impose a sales and use tax in accordance with the terms of this chapter. The title of each ballot measure must clearly state the purposes for which the proposed sales and use tax will be used. The rate of tax under this subsection may not exceed one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax. A city may not begin imposing a tax approved by the voters under this subsection prior to January 1, 2011.

(b) If a county adopts an ordinance or resolution to submit a ballot proposition to the voters to impose the sales and use tax under subsection (1) of this section prior to a city within the county adopting an ordinance or resolution to submit a ballot proposition to the voters to impose the tax under this subsection, the rate of tax by the city under this subsection may not exceed an amount that would cause the total county and city tax rate under this section to exceed three-tenths of one percent. This subsection (2)(b) also applies if the county and city adopt an ordinance or resolution to impose sales and use taxes under this section on the same date.

(c) If the city adopts an ordinance or resolution to submit a ballot proposition to the voters to impose the sales and use tax under this subsection prior to the county in which the city is located, the county must provide a credit against its tax under subsection (1) of this section for the city tax under this subsection to the extent the total county and city tax rate under this section would exceed three-tenths of one percent.

(3) The tax authorized in this section is in addition to any other taxes authorized by law and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county.

((~~(3)~~)) (4) The retail sale or use of motor vehicles, and the lease of motor vehicles for up to the first thirty-six months of the lease, are exempt from tax imposed under this section.

((~~(4)~~)) (5) One-third of all money received under this section must be used solely for criminal justice purposes, fire protection purposes, or both. For the purposes of this subsection, "criminal justice purposes" has the same meaning as provided in RCW 82.14.340.

((~~(5)~~)) (6) Money received by a county under subsection (1) of this section must be shared between the county and the cities as follows: Sixty percent must be retained by the county and forty percent must be distributed on a per capita basis to cities in the county.

(7) Tax proceeds received by a city imposing a tax under this section must be shared between the county and city as follows: Fifteen percent must be distributed to the county and eighty-five percent is retained by the city.

Sec. 2. RCW 82.14.460 and 2009 c 551 s 2 are each amended to read as follows:

(1)(a) A county legislative authority may authorize, fix, and impose a sales and use tax in accordance with the terms of this chapter.

(b) If a county with a population over eight hundred thousand has not imposed the tax authorized under this subsection by January 1, 2011, any city with a population over fifty thousand located in that county may authorize, fix, and impose the sales and use tax in accordance with the terms of this chapter. The county must provide a credit against its tax for the full amount of tax imposed under this subsection (1)(b) by any city located in that county if the county imposes the tax after January 1, 2011.

(2) The tax authorized in this section ((~~shall be~~)) is in addition to any other taxes authorized by law and ((~~shall~~)) must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county for a county's tax and within a city for a city's tax. The rate of tax ((~~shall~~)) equals one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(3) Moneys collected under this section ((~~shall~~)) must be used solely for the purpose of providing for the operation or delivery of chemical dependency or mental health treatment programs and services and for the operation or delivery of therapeutic court programs and services. For the purposes of this section, "programs and services" includes, but is not limited to, treatment services, case management, and housing that are a component of a coordinated chemical dependency or mental health treatment program or service.

(4) All moneys collected under this section must be used solely for the purpose of providing new or expanded programs and services as provided in this section, except a portion of moneys collected under this section may be used to supplant existing funding for these purposes in any county as follows: Up to fifty percent may be used to supplant existing funding in calendar year 2010; up to forty percent may be used to supplant existing funding in calendar year 2011; up to thirty percent may be used to supplant existing funding in calendar year 2012; up to twenty percent may be used to supplant existing funding in calendar year 2013; and up to ten percent may be used to supplant existing funding in calendar year 2014.

(5) Nothing in this section may be interpreted to prohibit the use of moneys collected under this section for the replacement of lapsed federal funding previously provided for the operation or delivery of services and programs as provided in this section.

Sec. 3. RCW 82.14.340 and 1995 c 309 s 1 are each amended to read as follows:

(1) The legislative authority of any county may fix and impose a sales and use tax in accordance with the terms of this chapter, provided that such sales and use tax is subject to repeal by referendum, using the procedures provided in RCW 82.14.036. The referendum procedure provided in RCW 82.14.036 is the exclusive method for subjecting any county sales and use tax ordinance or resolution to a referendum vote.

(2) The tax authorized in this section ((~~shall be~~)) is in addition to any other taxes authorized by law and ((~~shall~~)) must be collected from those persons who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within such county. The rate of tax ((~~shall~~)) equals one-tenth of one percent of the selling price (in the case of a sales tax) or value of the article used (in the case of a use tax).

(3) When distributing moneys collected under this section, the state treasurer ((~~shall~~)) must distribute ten percent of the moneys to the county in which the tax was collected. The remainder of the moneys collected under this section ((~~shall~~)) must be distributed to the county and the cities within the county ratably based on population as last determined by the office of financial management. In making the distribution based on population, the county ((~~shall~~)) must receive that proportion that the unincorporated population of the county bears to the total population of the county and each city ((~~shall~~)) must receive that proportion that the city incorporated population bears to the total county population.

(4) Moneys received from any tax imposed under this section ((~~shall~~)) must be expended ((~~exclusively~~)) for criminal justice purposes ((~~and shall not be used to replace or supplant existing funding~~)). Criminal justice purposes are defined as activities that substantially assist the criminal justice system, which may include circumstances where ancillary benefit to the civil justice system occurs, and which includes domestic violence services such as those provided by domestic violence programs, community advocates, and legal advocates, as defined in RCW 70.123.020. ((~~Existing funding for purposes of this subsection is defined as calendar year 1989 actual operating expenditures for criminal justice purposes. Calendar year 1989 actual operating expenditures for criminal justice purposes exclude the following: Expenditures for extraordinary events not likely to reoccur, changes in contract provisions for criminal justice services, beyond the control of the local jurisdiction receiving the services, and major nonrecurring capital expenditures.~~))

(5) In the expenditure of funds for criminal justice purposes as provided in this section, cities and counties, or any combination thereof, are expressly authorized to participate in agreements, pursuant to chapter 39.34 RCW, to jointly expend funds for criminal justice purposes of mutual benefit. Such criminal justice purposes of mutual benefit include, but are not limited to, the construction, improvement, and expansion of jails, court facilities, ((~~and~~)) juvenile justice facilities, and services with ancillary benefits to the civil justice system.

Sec. 4. RCW 82.12.010 and 2009 c 535 s 304 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~~)) is 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~~)) is 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~~)) must 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~~)) is 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~~)) must 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~~)) is 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~~)) is 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~~)) is 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 digital automated service or other 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~~)) is 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~~)) is 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) "Value of the digital good or digital code used" means the purchase price for the digital good or digital code, the use of which is taxable under this chapter. If the digital good or digital code is acquired other than by purchase, the value of the digital good or digital code must be determined as nearly as possible according to the retail selling price at place of use of similar digital goods or digital codes of like quality and character under rules the department may prescribe;

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

(a) With respect to tangible personal property, except for natural gas and manufactured gas, 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;

(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;

(d) With respect to a digital good or digital code, the first act within this state by which the taxpayer, as a consumer, views, accesses, downloads, possesses, stores, opens, manipulates, or otherwise uses or enjoys the digital good or digital code;

(e) With respect to a digital automated service, the first act within this state by which the taxpayer, as a consumer, uses, enjoys, or otherwise receives the benefit of the service;

(f) With respect to a service defined as a retail sale in RCW 82.04.050(6)(b), the first act within this state by which the taxpayer, as a consumer, accesses the prewritten computer software; ((~~and~~))

(g) With respect to a service defined as a retail sale in RCW 82.04.050(2)(g), the first act within this state after the service has been performed by which the taxpayer, as a consumer, views, accesses, downloads, possesses, stores, opens, manipulates, or otherwise uses or enjoys the digital good upon which the service was performed; and

(h) 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;

(7) "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;

(8)(a)(i) Except as provided in (a)(ii) of this subsection (8), "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, digital good, digital code, or a sale of any digital automated service or service defined as a retail sale in RCW 82.04.050 (2)(a) or (g), (3)(a), or (6)(b) 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;

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

(10) The meaning ascribed to words and phrases in chapters 82.04 and 82.08 RCW, insofar as applicable, ((~~shall have~~)) has 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 means 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 (10), the use of the property ((~~shall be~~)) is deemed to be by such consumer.

Sec. 5. 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~~)) is 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~~)) does 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~~)) is 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~~)) must be paid by the consumer. The administration and collection of the tax ((~~hereby~~)) imposed ((~~shall be~~)) is pursuant to RCW 82.14.050.

Sec. 6. RCW 9.46.113 and 1975 1st ex.s. c 166 s 11 are each amended to read as follows:

Any county, city or town which collects a tax on gambling activities authorized pursuant to RCW 9.46.110 ((~~shall~~)) must use the revenue from such tax primarily for the purpose of ((~~enforcement of the provisions of this chapter by the county, city or town law enforcement agency~~)) public safety.

NEW SECTION. **Sec. 7.** 2009 c 551 s 12 (uncodified) is hereby repealed."

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

MOTION

Senator Kastama moved that the following amendment by Senators Kastama and Regala to the committee striking amendment be adopted:

On page 3, line 14, after "population over", strike "fifty" and insert "thirty"

On page 4, line 3, after "any county", insert "or city"

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

The President declared the question before the Senate to be the adoption of the amendment by Senators Kastama and Regala on page 3, line 14 to the committee striking amendment to Engrossed Substitute House Bill No. 3179.

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means as amended to Engrossed Substitute House Bill No. 3179.

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

MOTION

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

On page 1, line 2 of the title, after "cities;" strike the remainder of the title and insert "amending RCW 82.14.450, 82.14.460, 82.14.340, 82.12.010, 82.14.230, and 9.46.113; and repealing 2009 c 551 s 12 (uncodified)."

MOTION

On motion of Senator Regala, the rules were suspended, Engrossed Substitute House Bill No. 3179 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Regala spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 3179 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 3179 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 28; Nays, 18; Absent, 1; Excused, 2.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Jacobsen, Kastama, Kauffman, Keiser, Kline, Kohl-Welles, McAuliffe,

McDermott, Murray, Oemig, Pridemore, Ranker, Regala, Rockefeller, Shin, Swecker and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hobbs, Holmquist, Honeyford, Kilmer, King, Marr, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon and Stevens

Absent: Senator Zarelli

Excused: Senators McCaslin and Prentice

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3179 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Brandland, Senator Zarelli was excused.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2990, by House Committee on Local Government & Housing (originally sponsored by Representatives Pettigrew, Santos, Simpson and Kenney)

Addressing alternative city assumption and tax authority provisions pertaining to water-sewer districts.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, Substitute House Bill No. 2990 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2990.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2990 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 8; Absent, 1; Excused, 1.

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

Voting nay: Senators Becker, Carrell, Delvin, Holmquist, Honeyford, Morton, Schoesler and Stevens

Absent: Senator Regala

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 2990, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2539, by House Committee on Ways & Means (originally sponsored by Representative Upthegrove)

Optimizing the collection of source separated materials.

The measure was read the second time.

MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed Second Substitute House Bill No. 2539 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2539.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2539 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator McCaslin

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2539, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2540, by Representatives Cody, Pedersen, Nelson, Kenney and Morrell

Concerning the practice of dentistry.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, House Bill No. 2540 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2540.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2540 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator McCaslin

HOUSE BILL NO. 2540, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2925, by House Committee on Ways & Means (originally sponsored by Representatives Kretz, Short and Condotta)

Concerning impact payments of a municipally owned hydroelectric facility.

The measure was read the second time.

MOTION

Senator McDermott moved that the following striking amendment by Senators McDermott and Morton be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 35.21.420 and 1965 c 7 s 35.21.420 are each amended to read as follows:

(1) Any city owning and operating a public utility and having facilities for the generation of electricity located in a county other than that in which the city is located, may provide for the public peace, health, safety and welfare of such county as concerns the facilities and the personnel employed in connection therewith, by contributing to the support of the county government of any such county and enter into contracts with any such county therefor.

(2)(a) Any city with a population greater than five hundred thousand people owning and operating a public utility and having facilities for the generation of electricity located in a county other than that in which the city is located, must provide for the impacts of lost revenue and the public peace, health, safety, and welfare of such county as concerns the facilities and the personnel employed in connection therewith, by contributing to the support of the county, city, or town government and school district of any such county and enter into contracts with any such county therefor as specified in RCW 35.21.425.

(b)(i) In the event a contract entered into under this section between a county and the governing body of a city with a population greater than five hundred thousand people authorized or required under this section expires prior to the adoption of a new contract between the parties, the city must continue to make compensatory payments calculated based on the payment terms set forth in the most recent expired compensation contract between the city and the county until such time as a new contract is entered into by the parties.

(ii) In the event a contract entered into under this section between a county and the governing body of a city with a population greater than five hundred thousand people expired prior to the effective date of this act, the city shall be indebted to the county for any resulting arrearage accruing from the time of the expiration of the contract until such time as a new contract is entered into by the parties. The dollar amount of such arrearage shall be calculated retroactively by reference to the payment terms set forth in the most recent expired compensation contract between the city and the county.

(c) In the event a contract entered into under this section between a county and the governing body of a city with a population greater than five hundred thousand people expires, or has expired prior to the effective date of this section and the county and the city are unable to reach agreement on a new contract within six months of such expiration, then either the county or the city may initiate the arbitration procedures set forth in RCW 35.21.426 by serving a written notice of intent to arbitrate on the other. Arbitration must commence within sixty days of service of such notice, and must follow the arbitration procedures as provided in RCW 35.21.426. The city is responsible for the costs of arbitration, including compensation for the arbitrators' services, except that the city and the county shall bear their own costs for attorneys' fees and their own costs of litigation.

Sec. 2. RCW 35.21.425 and 1965 c 7 s 35.21.425 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, whenever after March 17, 1955, any city shall construct hydroelectric generating facilities or acquire land for the purpose of constructing the same in a county other than the county in which such city is located, and by reason of such construction or acquisition shall (1) cause loss of revenue and/or place a financial burden in providing for the public peace, health, safety, welfare, and added road maintenance in such county, in addition to road construction or relocation as set forth in RCW 90.28.010 and/or (2) shall cause any loss of revenues and/or increase the financial burden of any school district affected by the construction because of an increase in the number of pupils by reason of the construction or the operation of said generating facilities, the city shall enter into an agreement with said county and/or the particular school district or districts affected for the payment of moneys to recompense such losses or to provide for such increased financial burden, upon such terms and conditions as may be mutually agreeable to the city and the county and/or school district or districts.

(2)(a) Whenever after March 17, 1955, a municipal owned utility located in a city with a population greater than five hundred thousand people constructs or operates hydroelectric generating facilities or acquires land for the purpose of constructing or operating the same in a county other than the county in which the city is located must enter into an agreement with the county affected for the annual payment of moneys to recompense such losses, as provided under subsection (1) of this section.

(b)(i) In the event an agreement entered into under this section between a county and the governing body of either a city with a population greater than five hundred thousand people or a municipal utility owned by a city with a population greater than five hundred thousand people expires prior to the adoption of a new agreement between the parties, the city or utility must continue to make compensatory payments calculated based on the payment terms set forth in the most recent expired compensation contract between the city and the county until such time as a new agreement is entered into by the parties.

(ii) In the event an agreement entered into under this section between a county and the governing body of either a city with a population greater than five hundred thousand people or a municipal utility owned by a city with a population greater than five hundred thousand people expired prior to the effective date of this act, the city shall be indebted to the county for any resulting arrearage accruing from the time of the expiration of the agreement until such time as a new agreement is entered into by the parties. The dollar amount of such arrearage shall be calculated retroactively by

reference to the payment terms set forth in the most recent expired compensation agreement between the city and the county.

(c) In the event an agreement entered into under this section between a county and the governing body of either a city with a population greater than five hundred thousand people or a municipal utility owned by a city with a population greater than five hundred thousand people expires, or has expired prior to the effective date of this section, and the county and the city are unable to reach agreement on a new agreement within six months of such expiration, then either the county or the city may initiate the arbitration procedures set forth in RCW 35.21.426 by serving a written notice of intent to arbitrate on the other. Arbitration must commence within sixty days of service of such notice, and must follow the arbitration procedures as provided in RCW 35.21.426. The city is responsible for the costs of arbitration, including compensation for the arbitrators' services, and the city and the county shall bear their own costs for attorneys' fees and their own costs of litigation.

NEW SECTION. **Sec. 3.** 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."

The President declared the question before the Senate to be the adoption of the striking amendment by Senators McDermott and Morton to Engrossed Substitute House Bill No. 2925.

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

MOTION

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

On page 1, line 2 of the title, after "facility;" strike the remainder of the title and insert "amending RCW 35.21.420 and 35.21.425; and declaring an emergency."

MOTION

On motion of Senator McDermott, the rules were suspended, Engrossed Substitute House Bill No. 2925 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

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

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2925 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2925 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2925 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 3105, by House Committee on Ecology & Parks (originally sponsored by Representatives Rolfes, Wallace, Kenney and Ormsby)

Allowing the director of financial management to include alternative fuel vehicles in a strategy to reduce fuel consumption and emissions from state agency fleets.

The measure was read the second time.

MOTION

Senator Rockefeller moved that the following committee striking amendment by the Committee on Environment, Water & Energy be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.41.130 and 2009 c 519 s 6 are each amended to read as follows:

(1) The director of financial management, after consultation with other interested or affected state agencies, shall establish overall policies governing the acquisition, operation, management, maintenance, repair, and disposal of((,)) all ((~~passenger~~)) motor vehicles owned or operated by any state agency. ((~~Such~~)) These policies shall include but not be limited to a definition of what constitutes authorized use of a state owned or controlled passenger motor vehicle and other motor vehicles on official state business. The definition shall include, but not be limited to, the use of state-owned motor vehicles for commuter ride sharing so long as the entire capital depreciation and operational expense of the commuter ride-sharing arrangement is paid by the commuters. Any use other than such defined use shall be considered as personal use.

(2)(a) By June 15, 2010, the director of the department of general administration, in consultation with the office and other interested or affected state agencies, shall develop strategies to ((~~reduce~~)) assist state agencies in reducing fuel consumption and emissions from all classes of vehicles.

(b) In an effort to achieve lower overall emissions for all classes of vehicles, state agencies should, when financially comparable over the vehicle's useful life, consider purchasing or converting to ultra-low carbon fuel vehicles.

(3) State agencies shall ((~~use these strategies to:~~

~~(1)~~)) phase in fuel economy standards for motor pools and leased petroleum-based fuel vehicles to achieve an average fuel economy standard of thirty-six miles per gallon for passenger vehicle fleets by 2015((~~;~~

~~(2) Achieve an average fuel economy of forty miles per gallon for light duty passenger vehicles purchased after June 15, 2010; and~~

~~(3) Achieve an average fuel economy standard of twenty-seven miles per gallon for light duty vans and sport utility vehicles purchased after June 15, 2010~~)).

(4) After June 15, 2010, state agencies shall:

(a) When purchasing new petroleum-based fuel vehicles for

vehicle fleets: (i) Achieve an average fuel economy of forty miles per gallon for light duty passenger vehicles; and (ii) achieve an average fuel economy of twenty-seven miles per gallon for light duty vans and sports utility vehicles; or

(b) Purchase ultra-low carbon fuel vehicles.

(5) State agencies must report annually on the progress made to achieve the goals under subsections (((~~(1) through~~)) (3) and (4) of this section beginning October 31, 2011.

(6) The department of general administration, in consultation with the office and other affected or interested agencies, shall develop a separate fleet fuel economy standard for all other classes of petroleum-based fuel vehicles and report the progress made toward meeting the fuel consumption and emissions goals established by this section to the governor and the relevant legislative committees by December 1, 2012.

((~~For the purposes of this section, light duty vehicles refers to cars, sport utility vehicles, and passenger vans.~~))

(7) The following vehicles are excluded from the ((~~agency fleet~~)) average fuel economy ((~~calculation~~)) goals established in subsections (3) and (4) of this section: Emergency response vehicles, passenger vans with a gross vehicle weight of eight thousand five hundred pounds or greater, vehicles that are purchased for off-pavement use, ultra-low carbon fuel vehicles, and vehicles that are driven less than two thousand miles per year.

(8) Average fuel economy calculations used under this section for petroleum-based fuel vehicles must be based upon the current United States environmental protection agency composite city and highway mile per gallon rating.

(9) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Petroleum-based fuel vehicle" means a vehicle that uses, as a fuel source, more than ten percent gasoline or diesel fuel.

(b) "Ultra-low carbon fuel vehicle" means a vehicle that uses, as a fuel source, at least ninety percent natural gas, hydrogen, biomethane, or electricity."

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Environment, Water & Energy to Substitute House Bill No. 3105.

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

MOTION

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

On page 1, line 3 of the title, after "fleets;" strike the remainder of the title and insert "and amending RCW 43.41.130."

MOTION

On motion of Senator Rockefeller, the rules were suspended, Substitute House Bill No. 3105 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

POINT OF INQUIRY

Senator Benton: "Would Senator Rockefeller yield to a question? Thank you, Senator will this bill increase the cost of our fleet in terms of the purchase of these alternative fuel vehicles and was there a fiscal note on this? What do you anticipate to be increase cost to the state if we adopt this measure?"

Senator Rockefeller: "Thank you for your inquiry Senator. Looking at the fiscal impact, no it shows a zero impact according to report that I have here."

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 3105 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3105 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 3105 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2680, by House Committee on Early Learning & Children's Services (originally sponsored by Representatives Roberts, Kagi, Angel, Seaquist, Walsh, Maxwell and Kenney)

Implementing a guardianship program.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that a guardianship is an appropriate permanent plan for a child who has been found to be dependent under chapter 13.34 RCW and who cannot safely be reunified with his or her parents. The legislature is concerned that parents not be pressured by the department into agreeing to the entry of a guardianship when further services would increase the chances that the child could be reunified with his or her parents. The legislature intends to create a separate guardianship chapter to establish permanency for children in foster care through the appointment of a guardian and dismissal of the dependency.

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

(1) "Child" means any individual under the age of eighteen years.

(2) "Dependent child" means a child who has been found by a court to be dependent in a proceeding under chapter 13.34 RCW.

(3) "Department" means the department of social and health services.

(4) "Guardian" means a person who: (a) Has been appointed by the court as the guardian of a child in a legal proceeding under this chapter; and (b) has the legal right to custody of the child pursuant to court order. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under chapter 13.34 RCW for the purpose of assisting the court in supervising the dependency.

(5) "Relative" means a person related to the child in the following ways: (a) Any blood relative, including those of half-blood, and including first cousins, second cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great; (b) stepfather, stepmother, stepbrother, and stepsister; (c) a person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law; (d) spouses of any persons named in (a), (b), or (c) of this subsection, even after the marriage is terminated; (e) relatives, as named in (a), (b), (c), or (d) of this subsection, of any half sibling of the child; or (f) extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);

(6) "Suitable person" means a nonrelative with whom the child or the child's family has a preexisting relationship; who has completed all required criminal history background checks and otherwise appears to be suitable and competent to provide care for the child; and with whom the child has been placed pursuant to RCW 13.34.130.

(7) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or licensed by a federally recognized Indian tribe located in this state under RCW 74.15.190, that has entered into a performance-based contract with the department to provide case management for the delivery and documentation of child welfare services as defined in RCW 74.13.020.

NEW SECTION. **Sec. 3.** GUARDIANSHIP PETITION. (1) Any party to a dependency proceeding under chapter 13.34 RCW may request a guardianship be established for a dependent child by filing a petition in juvenile court under this chapter. All parties to the dependency and the proposed guardian must receive adequate notice of all proceedings under this chapter. For purposes of this chapter, a dependent child age twelve years or older is a party to the proceedings. A proposed guardian has the right to intervene in proceedings under this chapter.

(2) To be designated as a proposed guardian in a petition under this chapter, a person must be age twenty-one or over and must meet the minimum requirements to care for children as established by the department under RCW 74.15.030, including but not limited to licensed foster parents, relatives, and suitable persons.

(3) Every petition filed in proceedings under this chapter shall contain: (a) A statement alleging whether the child is or may be an Indian child as defined in 25 U.S.C. Sec. 1903. If the child is an Indian child as defined under the Indian child welfare act, the provisions of that act shall apply; (b) a statement alleging whether the federal servicemembers civil relief act of 2003, 50 U.S.C. Sec. 501 et seq. applies to the proceeding; and (c) a statement alleging whether the Washington service members' civil relief act, chapter 38.42 RCW, applies to the proceeding.

(4) Every order or decree entered in any proceeding under this chapter shall contain: (a) A finding that the Indian child welfare act does or does not apply. Where there is a finding that the Indian child welfare act does apply, the decree or order must also contain a finding that all notice requirements and evidentiary requirements under the Indian child welfare act have been satisfied; (b) a finding that the federal servicemembers civil relief act of 2003 does or does not apply; and (c) a finding that the Washington service members' civil relief act, chapter 38.42 RCW, does or does not apply.

NEW SECTION. **Sec. 4.** GUARDIANSHIP HEARING. (1) At the hearing on a guardianship petition, all parties have the right to present evidence and cross-examine witnesses. The rules of evidence apply to the conduct of the hearing. The hearing under this section to establish a guardianship or convert an existing dependency guardianship to a guardianship under this section is a stage of the dependency proceedings for purposes of RCW 13.34.090(2).

(2) A guardianship shall be established if:

(a) The court finds by a preponderance of the evidence that it is in the child's best interests to establish a guardianship, rather than to terminate the parent-child relationship and proceed with adoption, or to continue efforts to return custody of the child to the parent; and

(b) All parties agree to entry of the guardianship order and the proposed guardian is qualified, appropriate, and capable of performing the duties of guardian under section 5 of this act; or

(c)(i) The child has been found to be a dependent child under RCW 13.34.030;

(ii) A dispositional order has been entered pursuant to RCW 13.34.130;

(iii) At the time of the hearing on the guardianship petition, the child has or will have been removed from the custody of the parent for at least six consecutive months following a finding of dependency under RCW 13.34.030;

(iv) The services ordered under RCW 13.34.130 and 13.34.136 have been offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been offered or provided;

(v) There is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future; and

(vi) The proposed guardian has signed a statement acknowledging the guardian's rights and responsibilities toward the child and affirming the guardian's understanding and acceptance that the guardianship is a commitment to provide care for the child until the child reaches age eighteen.

(3) The court may not establish a guardianship for a child who has no legal parent unless the court, in addition to making the required findings set forth in subsection (2) of this section, finds one or more exceptional circumstances exist and the benefits for the child of establishing the guardianship outweigh any potential disadvantage to the child of having no legal parent. Exceptional circumstances may include but are not limited to:

(a) The child has special needs and a suitable guardian is willing to accept custody and able to meet the needs of the child to an extent unlikely to be achieved through adoption; or

(b) The proposed guardian has demonstrated a commitment to provide for the long-term care of the child and: (i) Is a relative of the child; (ii) has been a long-term caregiver for the child and has acted as a parent figure to the child and is viewed by the child as a parent figure; or (iii) the child's family has identified the proposed guardian as the preferred guardian, and, if the child is age twelve years or older, the child also has identified the proposed guardian as the preferred guardian.

(4) Upon the request of a dependency guardian appointed under chapter 13.34 RCW and the department or supervising agency, the court shall convert a dependency guardianship established under chapter 13.34 RCW to a guardianship under this chapter.

NEW SECTION. **Sec. 5.** GUARDIANSHIP ORDER. (1) If the court has made the findings required under section 4 of this act, the court shall issue an order establishing a guardianship for the child. If the guardian has not previously intervened, the guardian shall be made a party to the guardianship proceeding upon entry of the guardianship order. The order shall:

(a) Appoint a person to be the guardian for the child;

(b) Specify the guardian's rights and responsibilities concerning the care, custody, control, and nurturing of the child;

(c) Specify the guardian's authority, if any, to receive, invest, and expend funds, benefits, or property belonging to the child;

(d) Specify an appropriate frequency and type of contact between the parent or parents and the child, if applicable, and between the child and his or her siblings, if applicable; and

(e) Specify the need for and scope of continued oversight by the court, if any.

(2) The guardian shall maintain physical and legal custody of the child and have the following rights and duties under the guardianship:

(a) Duty to protect, nurture, discipline, and educate the child;

(b) Duty to provide food, clothing, shelter, education as required by law, and health care for the child, including but not limited to, medical, dental, mental health, psychological, and psychiatric care and treatment;

(c) Right to consent to health care for the child and sign a release authorizing the sharing of health care information with appropriate authorities, in accordance with state law;

(d) Right to consent to the child's participation in social and school activities; and

(e) Duty to notify the court of a change of address of the guardian and the child. Unless specifically ordered by the court, however, the standards and requirements for relocation in chapter 26.09 RCW do not apply to guardianships established under this chapter.

(3) If the child has independent funds or other valuable property under the control of the guardian, the guardian shall provide an annual written accounting, supported with appropriate documentation, to the court regarding receipt and expenditure by the guardian of any such funds or benefits. This subsection shall not be construed to require a guardian to account for any routine funds or benefits received from a public social service agency on behalf of the child.

(4) The guardianship shall remain in effect until the child reaches the age of eighteen years or until the court terminates the guardianship, whichever occurs sooner.

(5) Once the dependency has been dismissed pursuant to section 7 of this act, the court shall not order the department or other supervising agency to supervise or provide case management services to the guardian or the child as part of the guardianship order.

(6) The court shall issue a letter of guardianship to the guardian upon the entry of the court order establishing the guardianship under this chapter.

NEW SECTION. **Sec. 6.** GUARDIANSHIP MODIFICATION. (1) A guardian or a parent of the child may petition the court to modify the visitation provisions of a guardianship order by:

(a) Filing with the court a motion for modification and an affidavit setting forth facts supporting the requested modification; and

(b) Providing notice and a copy of the motion and affidavit to all other parties. The nonmoving parties may file and serve opposing affidavits.

(2) The court shall deny the motion unless it finds that adequate cause for hearing the motion is established by the affidavits, in which case it shall set a date for hearing on an order to show cause why the requested modification should not be granted.

(3) If the court finds that a motion to modify a guardianship order has been brought in bad faith, the court may assess attorney's fees and court costs of the nonmoving party against the moving party.

NEW SECTION. **Sec. 7.** GUARDIANSHIP TERMINATION. (1) Any party to a guardianship proceeding may request termination of the guardianship by filing a petition and supporting affidavit alleging a substantial change has occurred in the circumstances of the child or the guardian and that the termination is necessary to serve the best interests of the child. The petition and affidavit must be served on the department or supervising agency and all parties to the guardianship.

(2) Except as provided in subsection (3) of this section, the court shall not terminate a guardianship unless it finds, upon the basis of facts that have arisen since the guardianship was established or that were unknown to the court at the time the guardianship was established, that a substantial change has occurred in the circumstances of the child or the guardian and that termination of the guardianship is necessary to serve the best interests of the child. The effect of a guardian's duties while serving in the military potentially impacting guardianship functions shall not, by itself, be a substantial change of circumstances justifying termination of a guardianship.

(3) The court may terminate a guardianship on the agreement of the guardian, the child, if the child is age twelve years or older, and a parent seeking to regain custody of the child if the court finds by a preponderance of the evidence and on the basis of facts that have arisen since the guardianship was established that:

(a) The parent has successfully corrected the parenting deficiencies identified by the court in the dependency action, and the circumstances of the parent have changed to such a degree that returning the child to the custody of the parent no longer creates a risk of harm to the child's health, welfare, and safety;

(b) The child, if age twelve years or older, agrees to termination of the guardianship and the return of custody to the parent; and

(c) Termination of the guardianship and return of custody of the child to the parent is in the child's best interests.

(4) Upon the entry of an order terminating a guardianship, the court shall enter an order:

(a) Granting the child's parent with legal and physical custody of the child;

(b) Granting a substitute guardian with legal and physical custody of the child; or

(c) Directing the child to be temporarily placed in the custody of the department for placement with a relative or other suitable person as defined in RCW 13.34.130(1)(b), if available, or in an appropriate licensed out-of-home placement, and directing that the department file a dependency petition on behalf of the child.

NEW SECTION. **Sec. 8.** APPOINTMENT OF GUARDIAN AD LITEM OR ATTORNEY FOR THE CHILD. In all proceedings to establish, modify, or terminate a guardianship order, the court shall appoint a guardian ad litem or attorney for the child. The court may appoint a guardian ad litem or attorney who represented the child in a prior proceeding under this chapter or under chapter 13.34 RCW, or may appoint an attorney to supersede an existing guardian ad litem.

NEW SECTION. **Sec. 9.** GUARDIANSHIP SUBSIDY. (1) A relative guardian who is a licensed foster parent at the time a guardianship is established under this chapter and who has been the child's foster parent for a minimum of six consecutive months preceding entry of the guardianship order is eligible for a relative guardianship subsidy on behalf of the child. The department may establish rules setting eligibility, application, and program standards

consistent with applicable federal guidelines for expenditure of federal funds.

(2) Within amounts appropriated for this specific purpose, a guardian who is a licensed foster parent at the time a guardianship is established under this chapter and who has been the child's foster parent for a minimum of six consecutive months preceding entry of the guardianship order is eligible for a guardianship subsidy on behalf of the child.

Sec. 10. RCW 13.34.030 and 2009 c 520 s 21 and 2009 c 397 s 1 are each reenacted and amended to read as follows:

For purposes of this chapter:

(1) "Abandoned" means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

(2) "Child" and "juvenile" means any individual under the age of eighteen years.

(3) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until: (a) The child returns home; (b) an adoption decree, a permanent custody order, or guardianship order is entered; or (c) the dependency is dismissed, whichever occurs first.

(4) "Department" means the department of social and health services.

(5) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to this chapter for the limited purpose of assisting the court in the supervision of the dependency.

(6) "Dependent child" means any child who:

(a) Has been abandoned;

(b) Is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child; or

(c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development.

(7) "Developmental disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to the individual.

(8) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding ((~~other than a proceeding under this chapter~~)), including a guardian appointed pursuant to chapter 13.-- RCW (the new chapter created in section 17 of this act); and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" ((~~shall~~)) does not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(9) "Guardian ad litem" means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

(10) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(11) "Housing assistance" means appropriate referrals by the department or other supervising agencies to federal, state, local, or private agencies or organizations, assistance with forms, applications, or financial subsidies or other monetary assistance for housing. For purposes of this chapter, "housing assistance" is not a remedial service or time-limited family reunification service as described in RCW 13.34.025(2).

(12) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, general assistance, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(13) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(14) "Preventive services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services, including housing assistance, capable of preventing the need for out-of-home placement while protecting the child.

(15) "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to RCW 74.15.030.

(16) "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half-sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in 25 U.S.C. Sec. 1903(4).

(17) "Social study" means a written evaluation of matters relevant to the disposition of the case and shall contain the following information:

(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(b) A description of the specific services and activities, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such services and activities are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered. The description shall identify the services chosen and approved by the parent;

(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs that have been considered and rejected; the preventive services, including housing assistance, that 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 the parents' attitude toward placement of the child;

(d) A statement of the likely harms the child will suffer as a result of removal;

(e) A description of the steps that will be taken to minimize the harm to the child that may result if separation occurs including an assessment of the child's relationship and emotional bond with any siblings, and the agency's plan to provide ongoing contact between the child and the child's siblings if appropriate; and

(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

(18) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or ((~~an~~)) licensed by a federally recognized Indian tribe located in this state under RCW 74.15.190 ((~~with whom the department~~)), that has entered into a performance-based contract with the department to provide case management for the delivery and documentation of child welfare services as defined in RCW 74.13.020.

NEW SECTION. **Sec. 11.** A new section is added to chapter 13.34 RCW to read as follows:

(1) Notwithstanding the provisions of chapter 13.-- RCW (the new chapter created in section 17 of this act), a dependency guardianship established by court order under this chapter and in force on the effective date of this section shall remain subject to the provisions of this chapter unless: (a) The dependency guardianship is modified or terminated under the provisions of this chapter; or (b) the dependency guardianship is converted by court order to a guardianship pursuant to a petition filed under section 3 of this act.

(2) A dependency guardian or the department or supervising agency may request the juvenile court to convert a dependency guardianship established under this chapter to a guardianship under chapter 13.--RCW (the new chapter created in section 17 of this act) by filing a petition under section 3 of this act. If both the dependency guardian and the department or supervising agency agree that the dependency guardianship should be converted to a guardianship under this chapter, and if the court finds that such conversion is in the child's best interests, the court shall grant the petition and enter an order of guardianship in accordance with section 5 of this act.

(3) The court shall dismiss the dependency established under this chapter upon the entry of a guardianship order under chapter 13.-- RCW (the new chapter created in section 17 of this act).

NEW SECTION. **Sec. 12.** A new section is added to chapter 74.13 RCW to read as follows:

(1) The department shall adopt rules consistent with federal regulations for the receipt and expenditure of federal funds and implement a subsidy program for eligible relatives appointed by the court as a guardian under section 5 of this act.

(2) For the purpose of licensing a relative seeking to be appointed as a guardian and eligible for a guardianship subsidy under this section, the department shall, on a case-by-case basis, and when determined to be in the best interests of the child:

(a) Waive nonsafety licensing standards; and

(b) Apply the list of disqualifying crimes in the adoption and safe families act, rather than the secretary's list of disqualifying crimes, unless doing so would compromise the child's safety, or would adversely affect the state's ability to continue to obtain federal funding for child welfare related functions.

(3) Relative guardianship subsidy agreements shall be designed to promote long-term permanency for the child, and may include provisions for periodic review of the subsidy amount and the needs of the child.

Sec. 13. RCW 13.34.210 and 2009 c 520 s 35 and 2009 c 152 s 2 are each reenacted and amended to read as follows:

If, upon entering an order terminating the parental rights of a parent, there remains no parent having parental rights, the court shall commit the child to the custody of the department or a supervising agency willing to accept custody for the purpose of placing the child for adoption. If an adoptive home has not been identified, the department or supervising agency shall place the child in a licensed foster home, or take other suitable measures for the care and welfare of the child. The custodian shall have authority to consent to the adoption of the child consistent with chapter 26.33 RCW, the marriage of the child, the enlistment of the child in the armed forces of the United States, necessary surgical and other medical treatment for the child, and to consent to such other matters as might normally be required of the parent of the child.

If a child has not been adopted within six months after the date of the order and a guardianship of the child under ((~~RCW 13.34.231~~)) chapter 13.-- RCW (the new chapter created in section 17 of this act) or chapter 11.88 RCW, or a permanent custody order under chapter 26.10 RCW, has not been entered by the court, the court shall review the case every six months until a decree of adoption is entered. The supervising agency shall take reasonable steps to ensure that the child maintains relationships with siblings as provided in RCW 13.34.130(3) and shall report to the court the status and extent of such relationships.

Sec. 14. RCW 13.34.232 and 1994 c 288 s 7 are each amended to read as follows:

(1) ((~~If the court has made a finding under RCW 13.34.231, it shall enter~~)) An order establishing a dependency guardianship ((~~for the child. The order~~)) shall:

(a) Appoint a person or agency to serve as dependency guardian for the limited purpose of assisting the court to supervise the dependency;

(b) Specify the dependency guardian's rights and responsibilities concerning the care, custody, and control of the child. A dependency guardian shall not have the authority to consent to the child's adoption;

(c) Specify the dependency guardian's authority, if any, to receive, invest, and expend funds, benefits, or property belonging to the child;

(d) Specify an appropriate frequency of visitation between the parent and the child; and

(e) Specify the need for any continued involvement of the supervising agency and the nature of that involvement, if any.

(2) Unless the court specifies otherwise in the guardianship order, the dependency guardian shall maintain the physical custody of the child and have the following rights and duties:

(a) Protect, discipline, and educate the child;

(b) Provide food, clothing, shelter, education as required by law, and routine health care for the child;

(c) Consent to necessary health and surgical care and sign a release of health care information to appropriate authorities, pursuant to law;

(d) Consent to social and school activities of the child; and

(e) Provide an annual written accounting to the court regarding receipt by the dependency guardian of any funds, benefits, or property belonging to the child and expenditures made therefrom.

(3) As used in this section, the term "health care" includes, but is not limited to, medical, dental, psychological, and psychiatric care and treatment.

(4) The child shall remain dependent for the duration of the guardianship. While the guardianship remains in effect, the dependency guardian shall be a party to any dependency proceedings pertaining to the child.

(5) The guardianship shall remain in effect only until the child is eighteen years of age or until the court terminates the guardianship order, whichever occurs sooner.

Sec. 15. RCW 13.34.234 and 2009 c 235 s 6 are each amended to read as follows:

A dependency guardian who is a licensed foster parent at the time the guardianship is established under ((~~RCW 13.34.231 and 13.34.232~~)) this chapter and who has been the child's foster parent for a minimum of six consecutive months preceding entry of the guardianship order ((~~is~~)) may be eligible for a guardianship subsidy on behalf of the child. ((~~The department may establish rules setting eligibility, application, and program standards consistent with applicable federal guidelines.~~))

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

(1) RCW 13.34.230 (Guardianship for dependent child--Petition for--Notice to, intervention by, department or supervising agency) and 2009 c 520 s 37, 1981 c 195 s 1, & 1979 c 155 s 51;

(2) RCW 13.34.231 (Guardianship for dependent child--Hearing--Rights of parties--Rules of evidence--Guardianship established, when) and 2000 c 122 s 29, 1994 c 288 s 6, & 1981 c 195 s 2;

(3) RCW 13.34.236 (Guardianship for dependent child--Qualifications for dependency guardian--Consideration of preferences of parent) and 1994 c 288 s 10 & 1981 c 195 s 7; and

(4) RCW 13.34.238 (Guardianship for dependent child--Relative guardianship subsidies) and 2009 c 235 s 5.

NEW SECTION. **Sec. 17.** Sections 2 through 9 of this act constitute a new chapter in Title 13 RCW."

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Substitute House Bill No. 2680.

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

MOTION

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

On page 1, line 1 of the title, after "program;" strike the remainder of the title and insert "amending RCW 13.34.232 and 13.34.234; reenacting and amending RCW 13.34.030 and 13.34.210; adding a new section to chapter 13.34 RCW; adding a new section to chapter 74.13 RCW; adding a new chapter to Title 13 RCW; creating a new section; and repealing RCW 13.34.230, 13.34.231, 13.34.236, and 13.34.238."

MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 2680 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2680 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2680 as amended by the Senate 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, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senators Kline and Rockefeller

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 2680 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Marr, Senators Kline and Rockefeller were excused.

MOTION

On motion of Senator Brandland, Senator Carrell was excused.

SECOND READING

HOUSE BILL NO. 2659, by Representatives Ormsby, Orcutt, Blake, Smith, Sullivan and Van De Wege

Modifying reporting requirements for timber purchases.

The measure was read the second time.

MOTION

On motion of Senator Jacobsen, the rules were suspended, House Bill No. 2659 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of House Bill No. 2659.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2659 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Carrell and McCaslin

HOUSE BILL NO. 2659, 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. 6409, by Senators Kastama, Rockefeller, Shin and Kohl-Welles

Creating the Washington investment in excellence account. Revised for 2nd Substitute: Creating the Washington opportunity pathways account.

MOTION

On motion of Senator Kastama, Second Substitute Senate Bill No. 6409 was substituted for Senate Bill No. 6409 and the second substitute bill was placed on the second reading and read the second time.

MOTION

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

On page 4, line 37, after "into the", strike "general fund", and insert "((~~general fund~~))Washington opportunity pathways account".

Senator Kastama spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Kastama and Becker on page 4, line 37 to Second Substitute Senate Bill No. 6409.

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

MOTION

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

On page 5, line 30, after "lottery commission", strike "shall develop", and insert "shall upon the effective date of this section develop and begin implementation of".

Senator Kastama spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Kastama and Becker on page 5, line 30 to Second Substitute Senate Bill No. 6409.

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

MOTION

On motion of Senator Kastama, the rules were suspended, Engrossed Second Substitute Senate Bill No. 6409 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kastama, Becker, Shin and Jacobsen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6409.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6409 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 13; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Delvin, Eide, Franklin, Fraser, Gordon, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Parlette, Pridemore, Ranker, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Benton, Carrell, Fairley, Hargrove, Haugen, Kauffman, McDermott, Morton, Pflug, Prentice, Regala, Roach and Stevens

Excused: Senator McCaslin

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6409, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 3030, by Representatives Fagan and Hinkle

Regarding the administration of irrigation districts.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 87.03.001 and 1989 c 84 s 66 are each amended to read as follows:

The formation of an irrigation district may be subject to potential review by a boundary review board under chapter 36.93 RCW. The alteration of the boundaries of an irrigation district, including but not limited to a consolidation, addition of lands, exclusion of lands, or merger, may be subject to potential review by a boundary review board under chapter 36.93 RCW, except that additions or exclusions of land to an irrigation district, when those lands are within the boundary of a federal reclamation project, are not subject to review by a boundary review board under chapter 36.93 RCW.

Sec. 2. RCW 87.03.436 and 1990 c 39 s 2 are each amended to read as follows:

All contract projects, the estimated cost of which is less than ((~~one~~)) three hundred thousand dollars, may be awarded ((~~to a contractor on~~)) using the small works roster((~~. The small works roster shall be comprised of all responsible contractors who have requested to be on the list. The board of directors shall authorize by resolution a procedure for securing telephone and/or written quotations from the contractors on the small works roster to assure establishment of a competitive price and for awarding contracts to the lowest responsible bidder. Such procedure shall require that a good faith effort be made to request quotations from all responsible contractors on the small works roster. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry. The small works roster shall be revised once a year~~)) process under RCW 39.04.155.

Sec. 3. RCW 87.03.443 and 2004 c 215 s 3 are each amended to read as follows:

There may be created ((~~for~~)) by each irrigation district or separate legal authority created pursuant to RCW 87.03.018 a fund to be known as the upgrading and improvement fund. The board of directors shall determine what portion of the annual revenue of the

irrigation district or separate legal authority will be placed into its upgrading and improvement fund, including all or any part of the funds received by a district or separate legal authority from the sale, delivery, and distribution of electrical energy. Moneys from the upgrading and improvement fund may ((~~only~~)) be used to modernize, improve, or upgrade ((~~the~~)) irrigation and hydroelectric power facilities ((~~of the irrigation district~~)) or to respond to an emergency affecting such facilities. The funds may also be used for licensing hydroelectric power facilities and for payment of capital improvements."

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Agriculture & Rural Economic Development to House Bill No. 3030.

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

MOTION

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

On page 1, line 1 of the title, after "districts;" strike the remainder of the title and insert "and amending RCW 87.03.001, 87.03.436, and 87.03.443."

MOTION

On motion of Senator Hatfield, the rules were suspended, House Bill No. 3030 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hatfield spoke in favor of passage of the bill.

MOTION

On motion of Senator Marr, Senator Regala was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 3030 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3030 as amended by the Senate and the bill passed the Senate by the following vote :Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators McCaslin and Regala

HOUSE BILL NO. 3030 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2961, by House Committee on Health & Human Services Appropriations (originally sponsored by Representatives Campbell, Hurst, Morrell, Kelley and Ormsby)

Establishing a statewide electronic tracking system for the nonprescription sales of ephedrine, pseudoephedrine, and phenylpropanolamine. Revised for 2nd Substitute: Establishing a statewide electronic sales tracking system for the nonprescription sales of ephedrine, pseudoephedrine, and phenylpropanolamine.

The measure was read the second time.

MOTION

Senator Keiser moved that the following amendment by Senators Keiser and Murray be adopted:

On page 6, line 6, after "hours" insert "in accordance with any rules adopted pursuant to section 3 of this act"

On page 7, line 15, after "officers" insert "in accordance with rules adopted by the board of pharmacy regarding the privacy of the purchaser of products covered by this act and law enforcement access to the records submitted to the tracking system as provided in this section consistent with the federal combat meth act"

On page 7, line 26, after "section." insert "The board of pharmacy shall adopt rules regarding the privacy of the purchaser of products covered by this act, and any public or law enforcement access to the records submitted to the tracking system as provided in subsection (2) (c) of this section consistent with the federal combat meth act."

Senators Keiser and Pflug spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser and Murray on page 6, line 6 to Engrossed Second Substitute House Bill No. 2961.

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

MOTION

On motion of Senator Franklin, the rules were suspended, Engrossed Second Substitute House Bill No. 2961 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Franklin spoke in favor of passage of the bill.

POINT OF INQUIRY

Senator Benton: "Would Senator Franklin yield to a question? Thank you Senator Franklin, you said that the list will be provided to the venders and the pharmacies at no cost. Can you tell me how we are going to pay for it?"

Senator Franklin: "The manufacturers, because these are dealing with over the counter drugs, they will be picking up the cost. and those of the small retailers are having some problems, they will continue to use the paper logs and will be phased in."

Senators Parlette and Becker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2961 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2961 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

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

Voting nay: Senator McDermott

Excused: Senators McCaslin and Regala

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2961 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 3016, by House Committee on Judiciary (originally sponsored by Representative Pedersen)

Updating provisions concerning the modification, review, and adjustment of child support orders to improve access to justice and to ensure compliance with federal requirements.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 26.09.170 and 2008 c 6 s 1017 are each amended to read as follows:

(1) Except as otherwise provided in ((~~subsection (7) of~~)) RCW 26.09.070(7), the provisions of any decree respecting maintenance or support may be modified: (a) Only as to installments accruing subsequent to the petition for modification or motion for adjustment except motions to compel court-ordered adjustments, which shall be effective as of the first date specified in the decree for implementing the adjustment; and, (b) except as otherwise provided in ((~~subsections (5), (6), (9), and (10) of~~)) this section, only upon a showing of a substantial change of circumstances. The provisions as to property disposition may not be revoked or modified, unless the court finds the existence of conditions that justify the reopening of a judgment under the laws of this state.

(2) Unless otherwise agreed in writing or expressly provided in the decree the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance or registration of a new domestic partnership of the party receiving maintenance.

(3) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child are terminated by emancipation of the child or by the death of the parent obligated to support the child.

(4) Unless expressly provided by an order of the superior court or a court of comparable jurisdiction, provisions for the support ((~~provisions of the order~~)) of a child are terminated upon the marriage or registration of a domestic partnership to each other of parties to a paternity order, or upon the remarriage or registration of a domestic partnership to each other of parties to a decree of dissolution. The remaining provisions of the order, including provisions establishing paternity, remain in effect.

(5)(a) A party to an order of child support may petition for a modification based upon a showing of substantially changed circumstances at any time.

(b) An obligor's voluntary unemployment or voluntary underemployment, by itself, is not a substantial change of circumstances.

(6) An order of child support may be modified one year or more after it has been entered without a showing ((~~a substantial change~~)) of substantially changed circumstances:

(a) If the order in practice works a severe economic hardship on either party or the child;

(b) If a party requests an adjustment in an order for child support which was based on guidelines which determined the amount of support according to the child's age, and the child is no longer in the age category on which the current support amount was based;

(c) If a child is still in high school, upon a finding that there is a need to extend support beyond the eighteenth birthday to complete high school; or

(d) To add an automatic adjustment of support provision consistent with RCW 26.09.100.

((~~(6) An order or decree entered prior to June 7, 1984, may be modified without showing a substantial change of circumstances if the requested modification is to:~~

~~(a) Require health insurance coverage for a child named therein; or~~

~~(b) Modify an existing order for health insurance coverage.~~

~~(7) An obligor's voluntary unemployment or voluntary underemployment, by itself, is not a substantial change of circumstances.~~))

(7)(a) If twenty-four months have passed from the date of the entry of the order or the last adjustment or modification, whichever is later, the order may be adjusted without a showing of substantially changed circumstances based upon:

(i) Changes in the income of the parents; or

(ii) Changes in the economic table or standards in chapter 26.19 RCW.

(b) Either party may initiate the adjustment by filing a motion and child support worksheets.

(c) If the court adjusts or modifies a child support obligation pursuant to this subsection by more than thirty percent and the change would cause significant hardship, the court may implement the change in two equal increments, one at the time of the entry of the order and the second six months from the entry of the order. Twenty-four months must pass following the second change before a motion for another adjustment under this subsection may be filed.

(8)(a) The department of social and health services may file an action to modify or adjust an order of child support if public assistance money is being paid to or for the benefit of the child and the child support order is at least twenty-five percent ((~~or more~~)) above or below the appropriate child support amount set forth in the standard calculation as defined in RCW 26.19.011 and reasons for the deviation are not set forth in the findings of fact or order. ((~~The determination of twenty-five percent or more shall be based on the current income of the parties and the department shall not be required to show a substantial change of circumstances if the reasons for the deviations were not set forth in the findings of fact or~~

~~order.~~

~~(9)(a) All child support decrees may be adjusted once every twenty-four months based upon changes in the income of the parents without a showing of substantially changed circumstances. Either party may initiate the adjustment by filing a motion and child support worksheets.~~

~~(b) A party may petition for modification in cases of substantially changed circumstances under subsection (1) of this section at any time. However, if relief is granted under subsection (1) of this section, twenty-four months must pass before a motion for an adjustment under (a) of this subsection may be filed.~~

~~(c) If, pursuant to (a) of this subsection or subsection (10) of this section, the court adjusts or modifies a child support obligation by more than thirty percent and the change would cause significant hardship, the court may implement the change in two equal increments, one at the time of the entry of the order and the second six months from the entry of the order. Twenty-four months must pass following the second change before a motion for an adjustment under (a) of this subsection may be filed.~~

~~(d) A parent who is receiving transfer payments who receives a wage or salary increase may not bring a modification action pursuant to subsection (1) of this section alleging that increase constitutes a substantial change of circumstances.~~

~~(e) The department of social and health services may file an action at any time to modify an order of child support in cases of substantially changed circumstances if public assistance money is being paid to or for the benefit of the child. The determination of the existence of substantially changed circumstances by the department that lead to the filing of an action to modify the order of child support is not binding upon the court.~~

~~(10) An order of child support may be adjusted twenty-four months from the date of the entry of the decree or the last adjustment or modification, whichever is later, based upon changes in the economic table or standards in chapter 26.19 RCW.~~))

(b) The department of social and health services may file an action to modify or adjust an order of child support in a nonassistance case if:

(i) The child support order is at least twenty-five percent above or below the appropriate child support amount set forth in the standard calculation as defined in RCW 26.19.011;

(ii) The department has determined the case meets the department's review criteria; and

(iii) A party to the order or another state or jurisdiction has requested a review.

(c) The determination of twenty-five percent or more shall be based on the current income of the parties and the department shall not be required to show a substantial change of circumstances if the reasons for the deviations were not set forth in the findings of fact or order.

(9) The department of social and health services may file an action to modify or adjust an order of child support under subsections (5) through (7) of this section if:

(a) Public assistance money is being paid to or for the benefit of the child;

(b) A party to the order in a nonassistance case has requested a review; or

(c) Another state or jurisdiction has requested a modification of the order.

(10) If testimony other than affidavit is required in any proceeding under this section, a court of this state shall permit a party or witness to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means, unless good cause is shown.

Sec. 2. RCW 26.09.175 and 2002 c 199 s 2 are each amended to read as follows:

(1) A proceeding for the modification of an order of child support shall commence with the filing of a petition and worksheets. The petition shall be in the form prescribed by the administrator for the courts. There shall be a fee of twenty dollars for the filing of a petition for modification of dissolution.

(2)(a) The petitioner shall serve upon the other party the summons, a copy of the petition, and the worksheets in the form prescribed by the administrator for the courts. If the modification proceeding is the first action filed in this state, service shall be made by personal service. If the decree to be modified was entered in this state, service shall be by personal service or by any form of mail requiring a return receipt. Proof of service shall be filed with the court.

(b) If the support obligation has been assigned to the state pursuant to RCW 74.20.330 or the state has a subrogated interest under RCW 74.20A.030, the summons, petition, and worksheets shall also be served on the attorney general; except that notice shall be given to the office of the prosecuting attorney for the county in which the action is filed in lieu of the office of the attorney general in those counties and in the types of cases as designated by the office of the attorney general by letter sent to the presiding superior court judge of that county. ((~~Proof of service shall be filed with the court.~~))

(3) ((~~The~~)) As provided for under RCW 26.09.170, the department of social and health services may file an action to modify or adjust an order of child support if:

(a) Public assistance money is being paid to or for the benefit of the child;

(b) A party to the order in a nonassistance case has requested a review; or

(c) Another state or jurisdiction has requested a modification of the order.

(4) A responding party's answer and worksheets shall be served and the answer filed within twenty days after service of the petition or sixty days if served out of state. ((~~The~~)) A responding party's failure to file an answer within the time required shall result in entry of a default judgment for the petitioner.

(((~~(4)~~))) (5) At any time after responsive pleadings are filed, ((~~either~~)) any party may schedule the matter for hearing.

(((~~(5)~~))) (6) Unless ((~~both~~)) all parties stipulate to arbitration or the presiding judge authorizes oral testimony pursuant to subsection (((~~(6)~~))) (7) of this section, a petition for modification of an order of child support shall be heard by the court on affidavits, the petition, answer, and worksheets only.

(((~~(6)~~))) (7) A party seeking authority to present oral testimony on the petition to modify a support order shall file an appropriate motion not later than ten days after the time of notice of hearing. Affidavits and exhibits setting forth the reasons oral testimony is necessary to a just adjudication of the issues shall accompany the petition. The affidavits and exhibits must demonstrate the extraordinary features of the case. Factors which may be considered include, but are not limited to: (a) Substantial questions of credibility on a major issue; (b) insufficient or inconsistent discovery materials not correctable by further discovery; or (c) particularly complex circumstances requiring expert testimony.

(8) If testimony other than affidavit is required in any proceeding under this section, a court of this state shall permit a party or witness to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means, unless good cause is shown.

Sec. 3. RCW 26.09.100 and 2008 c 6 s 1013 are each amended to read as follows:

(1) In a proceeding for dissolution of marriage or domestic partnership, legal separation, declaration of invalidity, maintenance, or child support, after considering all relevant factors but without

regard to misconduct, the court shall order either or both parents owing a duty of support to any child of the marriage or the domestic partnership dependent upon either or both spouses or domestic partners to pay an amount determined under chapter 26.19 RCW.

(2) The court may require automatic periodic adjustments or modifications of child support. That portion of any decree that requires periodic adjustments or modifications of child support shall use the provisions in chapter 26.19 RCW as the basis for the adjustment or modification. Provisions in the decree for periodic adjustment or modification shall not conflict with RCW 26.09.170 except that the decree may require periodic adjustments or modifications of support more frequently than the time periods established pursuant to RCW 26.09.170.

(3) Upon motion of a party and without a substantial change of circumstances, the court shall modify the decree to comply with subsection (2) of this section as to installments accruing subsequent to entry of the court's order on the motion for modification.

(4) The adjustment or modification provision may be modified by the court due to economic hardship consistent with the provisions of RCW 26.09.170((~~(5)~~)) (6)(a)."

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Substitute House Bill No. 3016.

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

MOTION

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

On page 1, line 3 of the title, after "requirements;" strike the remainder of the title and insert "and amending RCW 26.09.170, 26.09.175, and 26.09.100."

MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 3016 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 3016 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3016 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 3016 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

The President signed:
SENATE BILL 6218,
SENATE BILL 6219,
SUBSTITUTE SENATE BILL 6329,
SUBSTITUTE SENATE BILL 6363,
SENATE BILL 6418,
SENATE JOINT MEMORIAL 8025.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2596, by House Committee on Early Learning & Children's Services (originally sponsored by Representatives Williams, Chase, Upthegrove and Simpson)

Defining child advocacy centers for the multidisciplinary investigation of child abuse and implementation of county protocols.

The measure was read the second time.

MOTION

Senator Hargrove moved that the following amendment by Senators Hargrove and Carrell be adopted:

On page 6, after line 2, insert the following:

"NEW SECTION. **Sec. 4.** A new section is added to chapter 9A.44 RCW to read as follows:

While Article I, section 22 of the state Constitution and the sixth amendment of the United States Constitution protect the right of a defendant to represent him or herself in a criminal trial, Article I, section 35 of the state Constitution requires that crime victims be accorded due dignity and respect. Conflicts may arise between these constitutional provisions when a pro se defendant questions a victim in court. Procedures may be employed that preserve the pro se defendant's control over his or her own trial and that limit the trauma experienced by the victim. The legislature commends consideration of these competing constitutional provisions to the supreme court of Washington."

Correct the title.

Senator Hargrove spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove and Carrell on page 6, after line 2 to Substitute House Bill No. 2596.

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

MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 2596 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2596 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2596 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 2596 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2735, by Representatives Goodman, Appleton, Rolfes, Seaquist, Finn, Rodne, Williams, Haigh, Pettigrew, Nelson, Darneille, Hasegawa and Ormsby

Encouraging the need for representation of children in dependency matters.

The measure was read the second time.

MOTION

On motion of Senator Hargrove, the rules were suspended, House Bill No. 2735 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2735.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2735 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

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

Absent: Senator Rockefeller

Excused: Senator McCaslin

HOUSE BILL NO. 2735, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Marr, Senator Rockefeller was excused.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2525, by House Committee on Community & Economic Development & Trade (originally sponsored by Representatives Nealey, Klippert, Chandler and Haler)

Concerning public facilities districts created by at least two city or county legislative authorities.

The measure was read the second time.

MOTION

Senator Delvin moved that the following committee striking amendment by the Committee on Economic Development, Trade & Innovation be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 35.57.010 and 2009 c 533 s 1 are each amended to read as follows:

(1)(a) The legislative authority of any town or city located in a county with a population of less than one million may create a public facilities district.

(b) The legislative authorities of any contiguous group of towns or cities located in a county or counties each with a population of less than one million may enter an agreement under chapter 39.34 RCW for the creation and joint operation of a public facilities district.

(c) The legislative authority of any town or city, or any contiguous group of towns or cities, located in a county with a population of less than one million and the legislative authority of a contiguous county, or the legislative authority of the county or counties in which the towns or cities are located, may enter into an agreement under chapter 39.34 RCW for the creation and joint operation of a public facilities district.

(d) The legislative authority of a city located in a county with a population greater than one million may create a public facilities district, when the city has a total population of less than one hundred fifteen thousand but greater than eighty thousand and commences construction of a regional center prior to July 1, 2008.

(e) At least ((~~two legislative authorities, one or more~~)) three contiguous towns or cities with a combined population of at least one hundred sixty thousand, each of which previously created a public facilities district ((~~or districts~~)) under (((~~(b) or (c)~~))) (a) of this subsection, may create an additional public facilities district ((~~notwithstanding the fact that one or more of those towns or cities, with or without a county or counties, previously have created one or more public facilities districts within the geographic boundaries of the additional public facilities district. Those existing~~)). The previously created districts may continue their full corporate existence and activities notwithstanding the creation and existence of the additional district within ((~~all or part of~~)) the same geographic area. ((~~Additional public facilities districts formed under this subsection may be comprised of a maximum of three contiguous towns or cities separately or in combination with a maximum of two contiguous counties.~~))

(2)(a) A public facilities district ((~~shall be~~)) is coextensive with the boundaries of the city or town or contiguous group of cities or towns that created the district.

(b) A public facilities district created by an agreement between a town or city, or a contiguous group of towns or cities, and a contiguous county or the county in which they are located, ((~~shall be~~)) is coextensive with the boundaries of the towns or cities, and the boundaries of the county or counties as to the unincorporated areas of the county or counties. The boundaries ((~~shall~~)) do not

include incorporated towns or cities that are not parties to the agreement for the creation and joint operation of the district.

(3)(a) A public facilities district created by a single city or town shall be governed by a board of directors consisting of five members selected as follows: (i) Two members appointed by the legislative authority of the city or town; and (ii) three members appointed by legislative authority based on recommendations from local organizations. The members appointed under (a)(i) of this subsection, shall not be members of the legislative authority of the city or town. The members appointed under (a)(ii) of this subsection, ((~~shall~~)) must be based on recommendations received from local organizations that may include, but are not limited to the local chamber of commerce, local economic development council, and local labor council. The members shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(b) A public facilities district created by a contiguous group of cities and towns ((~~shall~~)) must be governed by a board of directors consisting of seven members selected as follows: (i) Three members appointed by the legislative authorities of the cities and towns; and (ii) four members appointed by the legislative authorities of the cities and towns based on recommendations from local organizations. The members appointed under (b)(i) of this subsection shall not be members of the legislative authorities of the cities and towns. The members appointed under (b)(ii) of this subsection, ((~~shall~~)) must be based on recommendations received from local organizations that include, but are not limited to the local chamber of commerce, local economic development council, local labor council, and a neighborhood organization that is directly affected by the location of the regional center in their area. The members of the board of directors ((~~shall~~)) must be appointed in accordance with the terms of the agreement under chapter 39.34 RCW for the joint operation of the district and shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(c) A public facilities district created by a town or city, or a contiguous group of towns or cities, and a contiguous county or the county or counties in which they are located, ((~~shall~~)) must be governed by a board of directors consisting of seven members selected as follows: (i) Three members appointed by the legislative authorities of the cities, towns, and county; and (ii) four members appointed by the legislative authorities of the cities, towns, and county based on recommendations from local organizations. The members appointed under (c)(i) of this subsection shall not be members of the legislative authorities of the cities, towns, or county. The members appointed under (c)(ii) of this subsection ((~~shall~~)) must be based on recommendations received from local organizations that include, but are not limited to, the local chamber of commerce, the local economic development council, the local labor council, and a neighborhood organization that is directly affected by the location of the regional center in their area. The members of the board of directors ((~~shall~~)) must be appointed in accordance with the terms of the agreement under chapter 39.34 RCW for the joint operation of the district and shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(d)(i) A public facilities district created under subsection (1)(e) of this section ((~~may~~)) must provide, in the agreement providing for its creation and operation, that the district must be governed by ((~~a board of directors appointed under (b) or (c) of this subsection, or by a~~)) an odd-numbered board of directors of not more than nine members who are also members of the legislative authorities that created the public facilities district or of the governing boards of the public facilities districts ((~~or districts, or both,~~)) previously created by those legislative authorities, or both.

(ii) A board of directors formed under this subsection must have an equal number of members representing each city((~~,~~)) or town((~~, or county~~)) participating in the public facilities district. If ((~~a public facilities district is created by an even number of legislative authorities, the members representing or appointed by those legislative authorities shall appoint an additional board member~~)) there are unfilled board member positions after each city or town has appointed an equal number of board members, the members so appointed must appoint a number of additional board members necessary to fill any remaining positions. For a board formed under this subsection to ((~~approve~~)) submit a proposition to the voters under RCW 82.14.048, ((~~the proposition must be approved by~~)) a majority of the members representing or appointed by each legislative authority participating in the public facilities district must agree to submit the proposition to the voters; however, the board may not submit a proposition to the voters prior to January 1, 2011.

(4) A public facilities district is a municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

(5) A public facilities district ((~~shall~~)) constitutes a body corporate and ((~~shall~~)) possesses all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, and to sue and be sued.

(6) A public facilities district may acquire and transfer real and personal property by lease, sublease, purchase, or sale. No direct or collateral attack on any public facilities district purported to be authorized or created in conformance with this chapter may be commenced more than thirty days after creation by the city and/or county legislative authority.

Sec. 2. RCW 35.57.020 and 2009 c 533 s 2 are each amended to read as follows:

(1)(a) ((~~Except for a public facilities district created under RCW 35.57.010(1)(e),~~)) A public facilities district is authorized to acquire, construct, own, remodel, maintain, equip, reequip, repair, finance, and operate one or more regional centers. For purposes of this chapter, "regional center" means a convention, conference, or special events center, or any combination of facilities, and related parking facilities, serving a regional population constructed, improved, or rehabilitated after July 25, 1999, at a cost of at least ten million dollars, including debt service. "Regional center" also includes an existing convention, conference, or special events center, and related parking facilities, serving a regional population, that is improved or rehabilitated after July 25, 1999, where the costs of improvement or rehabilitation are at least ten million dollars, including debt service. A "special events center" is a facility, available to the public, used for community events, sporting events, trade shows, and artistic, musical, theatrical, or other cultural exhibitions, presentations, or performances. A regional center is conclusively presumed to serve a regional population if state and local government investment in the construction, improvement, or rehabilitation of the regional center is equal to or greater than ten million dollars.

(b) A public facilities district created under RCW 35.57.010(1)(e):

(i) Is authorized, in addition to the authority granted under (a) of this subsection, to acquire, construct, own, remodel, maintain, equip, reequip, repair, finance, and operate one or more recreational facilities other than a ski area;

(ii) If exercising its authority under (a) or (b)(i) of this subsection, must obtain voter approval to fund each recreational facility or regional center pursuant to RCW 82.14.048(3); and

(iii) Possesses all of the powers with respect to recreational facilities other than a ski area that all public facilities districts possess with respect to regional centers under subsections (3), (4), and (7) of this section.

(2) A public facilities district may enter into contracts with any city or town for the purpose of exercising any powers of a community renewal agency under chapter 35.81 RCW.

(3) A public facilities district may impose charges and fees for the use of its facilities, and may accept and expend or use gifts, grants, and donations for the purpose of a regional center.

(4) A public facilities district may impose charges, fees, and taxes authorized in RCW 35.57.040, and use revenues derived therefrom for the purpose of paying principal and interest payments on bonds issued by the public facilities district to construct a regional center.

(5) Notwithstanding the establishment of a career, civil, or merit service system, a public facilities district may contract with a public or private entity for the operation or management of its public facilities.

(6) A public facilities district is authorized to use the supplemental alternative public works contracting procedures set forth in chapter 39.10 RCW in connection with the design, construction, reconstruction, remodel, or alteration of any regional center.

(7) A city or town in conjunction with any special agency, authority, or other district established by a county or any other governmental agency is authorized to use the supplemental alternative public works contracting procedures set forth in chapter 39.10 RCW in connection with the design, construction, reconstruction, remodel, or alteration of any regional center funded in whole or in part by a public facilities district.

(8) Any provision required to be submitted for voter approval under this section, may not be submitted for voter approval prior to January 1, 2011."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Economic Development, Trade & Innovation to Substitute House Bill No. 2525.

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

MOTION

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

On page 1, line 2 of the title, after "authorities;" strike the remainder of the title and insert "and amending RCW 35.57.010 and 35.57.020."

MOTION

On motion of Senator Delvin, the rules were suspended, Substitute House Bill No. 2525 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Delvin spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2525 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2525 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators McCaslin and Rockefeller

SUBSTITUTE HOUSE BILL NO. 2525 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2518, by House Committee on Judiciary (originally sponsored by Representatives Goodman, Rodne and Kelley)

Modifying oath requirements for interpreters.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, Engrossed Substitute House Bill No. 2518 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2518.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2518 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2518, 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. 2179, by House Committee on Transportation (originally sponsored by Representative Eddy)

Authorizing cities to provide and contract for supplemental transportation improvements. Revised for 1st Substitute: Authorizing cities located in counties having a population of more than one million five hundred thousand to provide and contract for supplemental transportation improvements.

The measure was read the second time.

MOTION

Senator Gordon moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 35.21 RCW to read as follows:

In addition to any other power and authority conferred to a city that is located in a county having a population of more than one million five hundred thousand, a city legislative authority may provide or contract for supplemental transportation improvements to meet mobility needs within the city's boundaries. For purposes of this section, a "supplemental transportation improvement" or "supplemental improvement" means any project, work, or undertaking to provide or contract for public transportation service in addition to any existing or planned public transportation service provided by public transportation agencies and systems serving the city. The supplemental authority provided to the city legislative authority under this section is subject to the following requirements:

(1) Prior to taking any action to provide or contract for supplemental transportation improvements permitted under this section, the legislative authority of the city shall conduct a public hearing at the time and place specified in a notice published at least once, not less than ten days before the hearing, in a newspaper of general circulation within the proposed district. The notice must specify the supplemental facilities or services to be provided or contracted for by the city, and must include estimated capital, operating, and maintenance costs. The legislative authority of the city shall hear objections from any person affected by the proposed supplemental improvements.

(2) Following the hearing held pursuant to subsection (1) of this section, if the city legislative authority finds that the proposed supplemental transportation improvements are in the public interest, the legislative authority shall adopt an ordinance providing for the supplemental improvements and provide or contract for the supplemental improvements.

(3) For purposes of providing or contracting for the proposed supplemental transportation improvements, the legislative authority of the city may contract with private providers and nonprofit organizations, and may form public-private partnerships. Such contracts and partnerships must require that public transportation services be coordinated with other public transportation agencies and systems serving the area and border jurisdictions.

(4) The legislative authorities of cities that are participating jurisdictions in a transportation benefit district, as provided under chapter 36.73 RCW, may petition the transportation benefit district for partial or full funding of supplemental transportation improvements as prescribed under section 3 of this act.

(5) Supplemental transportation improvements must be consistent with the city's comprehensive plan under chapter 36.70A RCW.

Sec. 2. RCW 36.73.015 and 2006 c 311 s 24 are each amended to read as follows:

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

(1) "District" means a transportation benefit district created under this chapter.

(2) "City" means a city or town.

(3) "Transportation improvement" means a project contained in the transportation plan of the state or a regional transportation planning organization. A project may include investment in new or existing highways of statewide significance, principal arterials of regional significance, high capacity transportation, public transportation, and other transportation projects and programs of regional or statewide significance including transportation demand management. Projects may also include the operation, preservation, and maintenance of these facilities or programs.

(4) "Supplemental transportation improvement" or "supplemental improvement" means any project, work, or undertaking to provide public transportation service, in addition to a district's existing or planned voter-approved transportation improvements, proposed by a participating city member of the district under section 3 of this act.

NEW SECTION. **Sec. 3.** A new section is added to chapter 36.73 RCW to read as follows:

(1) In districts comprised of more than one member city, the legislative authorities of any member city that is located in a county having a population of more than one million five hundred thousand may petition the district to provide supplemental transportation improvements.

(2) Upon receipt of a petition as provided in subsection (1) of this section for supplemental transportation improvements that are to be fully funded by the petitioner city, including ongoing operating and maintenance costs, the district must:

(a) Conduct a public hearing, and provide notice and opportunity for public comment consistent with the requirements of RCW 36.73.050(1); and

(b) Following the hearing, if a majority of the district's governing board determines that the proposed supplemental transportation improvements are in the public interest, the district shall adopt an ordinance providing for the incorporation of the supplemental improvements into any existing services. The supplemental transportation improvements must be in addition to existing services provided by the district. The district shall enter into agreements with the petitioner city or identified service providers to coordinate existing services with the supplemental improvements.

(3) Upon receipt of a petition as provided in subsection (1) of this section for supplemental transportation improvements proposed to be partially or fully funded by the district, the district must:

(a) Conduct a public hearing, and provide notice and opportunity for public comment consistent with the requirements of RCW 36.73.050(1); and

(b) Following the hearing, submit a proposition to the voters at the next special or general election for approval by a majority of the voters in the district. The proposition must specify the supplemental transportation improvements to be provided and must estimate the capital, maintenance, and operating costs to be funded by the district.

(4) If a proposition to incorporate supplemental transportation improvements is approved by the voters as provided under subsection (3) of this section, the district shall adopt an ordinance providing for the incorporation of the supplemental improvements into any existing services provided by the district. The supplemental improvements must be in addition to existing services. The district shall enter into agreements with the petitioner city or identified service providers to coordinate existing services with the supplemental improvements.

(5) A supplemental transportation improvement must be consistent with the petitioner city's comprehensive plan under chapter 36.70A RCW.

(6) Unless otherwise agreed to by the petitioner city or by a majority of the district's governing board, upon adoption of an ordinance under subsection (2) or (4) of this section, the district shall maintain its existing public transportation service levels in locations where supplemental transportation improvements are provided.

NEW SECTION. **Sec. 4.** A new section is added to chapter 35.58 RCW to read as follows:

If the legislative authority of a city provides or contracts for supplemental transportation improvements, as described in section 1 of this act or under chapter 36.73 RCW, a metropolitan municipal corporation serving the city or border jurisdictions shall coordinate its services with the supplemental transportation improvements to maximize efficiencies in public transportation services within and across service boundaries.

NEW SECTION. **Sec. 5.** A new section is added to chapter 36.57A RCW to read as follows:

If the legislative authority of a city provides or contracts for supplemental transportation improvements, as described in section 1 of this act or under chapter 36.73 RCW, a public transportation benefit area serving the city or border jurisdictions shall coordinate its services with the supplemental transportation improvements to maximize efficiencies in public transportation services within and across service boundaries.

NEW SECTION. **Sec. 6.** A new section is added to chapter 81.112 RCW to read as follows:

If the legislative authority of a city provides or contracts for supplemental transportation improvements, as described in section 1 of this act or under chapter 36.73 RCW, a regional transit authority serving the city or border jurisdictions shall coordinate its services with the supplemental transportation improvements to maximize efficiencies in public transportation services within and across service boundaries.

Sec. 7. RCW 35.58.260 and 1965 c 7 s 35.58.260 are each amended to read as follows:

If a metropolitan municipal corporation shall be authorized to perform the metropolitan transportation function, it shall, upon the effective date of the assumption of such power, have and exercise all rights with respect to the construction, acquisition, maintenance, operation, extension, alteration, repair, control and management of passenger transportation which any component city shall have been previously empowered to exercise and, except as provided in sections 1 and 3 of this act, such powers shall not thereafter be exercised by such component cities without the consent of the metropolitan municipal corporation: PROVIDED, That any city owning and operating a public transportation system on such effective date may continue to operate such system within such city until such system shall have been acquired by the metropolitan municipal corporation and a metropolitan municipal corporation may not acquire such system without the consent of the city council of such city.

Sec. 8. RCW 35.58.272 and 1975 1st ex.s. c 270 s 1 are each amended to read as follows:

"Municipality" as used in RCW 35.58.272 through 35.58.279, as now or hereafter amended, and in RCW 36.57.080, 36.57.100, 36.57.110, 35.58.2721, 35.58.2794, and chapter 36.57A RCW, means any metropolitan municipal corporation which shall have been authorized to perform the function of metropolitan public transportation; any county performing the public transportation function as authorized by RCW 36.57.100 and 36.57.110 or which has established a county transportation authority pursuant to chapter 36.57 RCW; any public transportation benefit area established pursuant to chapter 36.57A RCW; and any city, which is not located within the boundaries of a metropolitan municipal corporation unless provided otherwise in sections 1 and 3 of this act, county transportation authority, or public transportation benefit area, and which owns, operates or contracts for the services of a publicly owned or operated system of transportation: PROVIDED, That the term "municipality" shall mean in respect to any county performing the public transportation function pursuant to RCW 36.57.100 and 36.57.110 only that portion of the unincorporated area lying wholly within such unincorporated transportation benefit area.

"Motor vehicle" as used in RCW 35.58.272 through 35.58.279, as now or hereafter amended, shall have the same meaning as in RCW 82.44.010.

"County auditor" shall mean the county auditor of any county or any person designated to perform the duties of a county auditor pursuant to RCW 82.44.140.

"Person" shall mean any individual, corporation, firm, association or other form of business association."

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to Substitute House Bill No. 2179.

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

MOTION

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

On page 1, line 2 of the title, after "improvements;" strike the remainder of the title and insert "amending RCW 36.73.015, 35.58.260, and 35.58.272; adding a new section to chapter 35.21 RCW; adding a new section to chapter 36.73 RCW; adding a new section to chapter 35.58 RCW; adding a new section to chapter 36.57A RCW; and adding a new section to chapter 81.112 RCW."

MOTION

On motion of Senator Gordon, the rules were suspended, Substitute House Bill No. 2179 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Gordon and Swecker spoke in favor of passage of the bill.

Senator Murray spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2179 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2179 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 5; Absent, 0; Excused, 1.

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

Voting nay: Senators Fairley, Kline, Kohl-Welles, McDermott and Murray

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 2179 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1880, by Representatives Armstrong, Hunt, Appleton, Alexander and Nelson

Concerning ballot envelopes.

The measure was read the second time.

MOTION

Senator McDermott moved that the following committee striking amendment by the Committee on Government Operations & Elections be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 29A.40.091 and 2009 c 369 s 39 are each amended to read as follows:

The county auditor shall send each ((~~absentee~~)) voter a ballot, a security envelope in which to seal the ballot after voting, a larger envelope in which to return the security envelope, and instructions on how to mark the ballot and how to return it to the county auditor. The instructions that accompany ((~~an absentee~~)) a ballot for a partisan primary must include instructions for voting the applicable ballot style, as provided in chapter 29A.36 RCW. The ((~~absentee~~)) voter's name and address must be printed on the larger return envelope, which must also contain a declaration by the ((~~absentee~~)) voter reciting his or her qualifications and stating that he or she has not voted in any other jurisdiction at this election, together with a summary of the penalties for any violation of any of the provisions of this chapter. The declaration must clearly inform the voter that it is illegal to vote if he or she is not a United States citizen; it is illegal to vote if he or she has been convicted of a felony and has not had his or her voting rights restored; and, except as otherwise provided by law, it is illegal to cast a ballot or sign ((~~an absentee~~)) a return envelope on behalf of another voter. The return envelope must provide space for the voter to indicate the date on which the ballot was voted and for the voter to sign the oath. It must also contain a space so that the voter may include a telephone number. A summary of the applicable penalty provisions of this chapter must be printed on the return envelope immediately adjacent to the space for the voter's signature. The signature of the voter on the return envelope must affirm and attest to the statements regarding the qualifications of that voter and to the validity of the ballot. The return envelope ((~~must also have a~~)) may provide secrecy ((~~flap that the voter may seal that will cover~~)) for the voter's signature and optional telephone number. For overseas ((~~voters~~)) and service voters, the signed declaration on the return envelope constitutes the equivalent of a voter registration for the election or primary for which the ballot has been issued. The voter must be instructed to either return the ballot to the county auditor by whom it was issued or attach sufficient first-class postage, if applicable, and mail the ballot to the appropriate county auditor no later than the day of the election or primary for which the ballot was issued.

If the county auditor chooses to forward ((~~absentee~~)) ballots, he or she must include with the ballot a clear explanation of the qualifications necessary to vote in that election and must also advise a voter with questions about his or her eligibility to contact the county auditor. This explanation may be provided on the ballot envelope, on an enclosed insert, or printed directly on the ballot itself. If the information is not included, the envelope must clearly indicate that the ballot is not to be forwarded and that return postage is guaranteed.

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."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Government Operations & Elections to House Bill No. 1880.

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

MOTION

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

On page 1, line 1 of the title, after "envelopes;" strike the remainder of the title and insert "amending RCW 29A.40.091; and declaring an emergency."

MOTION

On motion of Senator McDermott, the rules were suspended, House Bill No. 1880 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McDermott and Roach spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1880 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1880 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

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

Voting nay: Senators Gordon, Holmquist and Oemig

Excused: Senator McCaslin

HOUSE BILL NO. 1880 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2625, by Representatives Kelley, Ericks, Conway, Driscoll, O'Brien, Liias, Blake, Finn, Simpson, Orwall, Morrell and Campbell

Addressing bail for felony offenses.

The measure was read the second time.

MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be not adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature intends to appoint a panel of experts to study bail practices and procedures. The bail system must be examined in a comprehensive and well-considered manner from all aspects including, but not limited to, judicial discretion, bail amounts and procedures, public safety, variations in county practices, constitutional restraints, and cost to local government. The variety of practices and procedures requires that a panel of experts study the issue and report its recommendation to the legislature.

NEW SECTION. **Sec. 2.** (1)(a) A legislative task force on bail practices is established, with members as provided in this subsection.

(i) The president of the senate shall appoint one member from each of the two largest caucuses of the senate;

(ii) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives;

(iii) The chief justice of the Washington state supreme court or the chief justice's designee;

(iv) A superior court judge appointed by the superior court judges association;

(v) A district or municipal court judge appointed by the district and municipal court judges association;

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

(vii) The secretary of the Washington state department of corrections or the secretary's designee;

(viii) Two prosecutors appointed by the Washington association of prosecuting attorneys or designees of the prosecutors;

(ix) Two attorneys selected by separate associations of attorneys whose members have practices that focus on representing criminal defendants;

(x) One police officer and one deputy sheriff selected by a statewide association of such officers and deputies;

(xi) A representative of a statewide association of city governments, selected by the association;

(xii) A representative of a statewide association of counties, selected by the association;

(xiii) A representative employed as an adult corrections officer selected by a statewide association of such officers;

(xiv) A representative from an entity representing corrections officers at a local county jail in which adult offenders are in custody and located in any county with a population in excess of one million persons, selected by the entity;

(xv) A representative of a statewide organization concerned primarily with the protection of individual liberties, selected by the organization;

(xvi) A representative of a statewide association of advocates who work on behalf of victims and survivors of violent crimes, selected by the association;

(xvii) A representative of the bail bond enforcement industry, chosen by a statewide association of bail bond enforcement agents;

(xviii) A representative of the bail bond industry, chosen by a statewide association of bail companies;

(xix) A representative of a statewide consumer advocacy organization with at least thirty thousand members, selected by the organization.

(b) The task force shall choose its cochairs from among its legislative membership. The legislative cochairs shall convene the initial meeting of the task force.

(2) The task force shall review, at a minimum, the following issues:

(a) All aspects of bail, paying particular attention to legislation affecting bail and pretrial release introduced during the 2010 legislative session;

(b) A validated risk assessment tool that measures or predicts the likelihood that an offender will exhibit violent behavior if released and whether judges should use this tool at bail hearings;

(c) Bail practices by county, including the processes used to seek and grant bail as well as the standards by which bail is granted;

(d) Whether, or to what extent, uniformity of bail practices should be required by state law;

(e) The characteristics of the federal system;

(f) The benefits of competitive freedom of government regulation in the pricing of bail bonds;

(g) The interests of crime victims in being notified of a person's release on bail;

(h) The interests of counties and cities that maintain municipal courts;

(i) Legal and constitutional constraints in granting or denying bail;

(j) Whether the existing regulatory, judicial, or statutory constraints on bail should be revised; and

(k) The pretrial release system.

(3) The task force shall request that the Washington state institute for public policy conduct research to better inform the task force on issues, such as: (a) The percentage of people who are released on bail and reoffend while released on bail; (b) the likelihood that the offense for which bail was granted is statistically or causally related to additional offenses that are committed; and (c) the effect that race or economic status of a person seeking bail has on the likelihood of being granted bail.

(4) Staff support for the task force must be provided by senate committee services and the house of representatives office of program research.

(5) Travel and other membership expenses for legislative members must not be reimbursed. Nonlegislative members must seek reimbursement for travel and other membership expenses through their respective agencies or organizations.

(6) The task force shall hold meetings in state or local government facilities and shall endeavor to accommodate the varied places of residence among task force members.

(7) The task force may organize itself in a manner, and adopt rules of procedure, that it determines are most conducive to the timely completion of its charge.

(8) The task force is subject to chapter 42.30 RCW.

(9) The task force shall report its findings and recommendations to the Washington state supreme court, the governor, and appropriate committees of the legislature by December 1, 2010.

(10) This section expires December 31, 2010."

On page 1, line 1 of the title, after "offenses;" strike the remainder of the title and insert "creating new sections; and providing an expiration date."

The President declared the question before the Senate to be the motion by Senator Kline to not adopt the committee striking amendment by the Committee on Judiciary to House Bill No. 2625.

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

MOTION

Senator Kline moved that the following striking amendment by Senators Kline, Hargrove and Carrell be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature intends by this act to require an individualized determination by a judicial officer of

conditions of release for persons in custody for felony. This requirement is consistent with constitutional requirements and court rules regarding the right of a detained person to a prompt determination of probable cause and judicial review of the conditions of release and the requirement that judicial determinations of bail or release be made no later than the preliminary appearance stage.

NEW SECTION. **Sec. 2.** (1) Bail for the release of a person arrested and detained for a felony offense must be determined on an individualized basis by a judicial officer.

(2) This section expires August 1, 2011.

NEW SECTION. **Sec. 3.** It is the intent of the legislature to enact a law for the purpose of reasonably assuring public safety in bail determination hearings and hearings pursuant to the proposed amendment to Article I, section 20 of the state Constitution set forth in House Joint Resolution No. 4220. Other provisions of law address matters relating to assuring the appearance of the defendant at trial and preventing interference with the administration of justice.

NEW SECTION. **Sec. 4.** Upon the appearance before a judicial officer of a person charged with an offense, the judicial officer must issue an order that, pending trial, the person be:

(1) Released on personal recognizance;

(2) Released on a condition or combination of conditions ordered under section 5 of this act or other provision of law;

(3) Temporarily detained as allowed by law; or

(4) Detained as provided under this act.

NEW SECTION. **Sec. 5.** (1) The judicial officer may at any time amend the order to impose additional or different conditions of release. The conditions imposed under this chapter supplement but do not supplant provisions of law allowing the imposition of conditions to assure the appearance of the defendant at trial or to prevent interference with the administration of justice.

(2) Appropriate conditions of release under this chapter include, but are not limited to, the following:

(a) The defendant may be placed in the custody of a designated person or organization agreeing to supervise the defendant;

(b) The defendant may have restrictions placed upon travel, association, or place of abode during the period of release;

(c) The defendant may be required to comply with a specified curfew;

(d) The defendant may be required to return to custody during specified hours or to be placed on electronic monitoring, if available. The defendant, if convicted, may not have the period of incarceration reduced by the number of days spent on electronic monitoring;

(e) The defendant may be prohibited from approaching or communicating in any manner with particular persons or classes of persons;

(f) The defendant may be prohibited from going to certain geographical areas or premises;

(g) The defendant may be prohibited from possessing any dangerous weapons or firearms;

(h) The defendant may be prohibited from possessing or consuming any intoxicating liquors or drugs not prescribed to the defendant. The defendant may be required to submit to testing to determine the defendant's compliance with this condition;

(i) The defendant may be prohibited from operating a motor vehicle that is not equipped with an ignition interlock device;

(j) The defendant may be required to report regularly to and remain under the supervision of an officer of the court or other person or agency; and

(k) The defendant may be prohibited from committing any violations of criminal law.

NEW SECTION. **Sec. 6.** If, after a hearing on offenses prescribed in Article I, section 20 of the state Constitution, the judicial officer finds, by clear and convincing evidence, that a person shows a propensity for violence that creates a substantial likelihood of danger to the community or any persons, and finds that no condition or combination of conditions will reasonably assure the safety of any other person and the community, such judicial officer must order the detention of the person before trial. The detainee is entitled to expedited review of the detention order by the court of appeals under the writ provided in RCW 7.36.160.

NEW SECTION. **Sec. 7.** The judicial officer must, in determining whether there are conditions of release that will reasonably assure the safety of any other person and the community, take into account the available information concerning:

(1) The nature and circumstances of the offense charged, including whether the offense is a crime of violence;

(2) The weight of the evidence against the defendant; and

(3) The history and characteristics of the defendant, including:

(a) The person's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings;

(b) Whether, at the time of the current offense or arrest, the defendant was on community supervision, probation, parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under federal, state, or local law; and

(c) The nature and seriousness of the danger to any person or the community that would be posed by the defendant's release.

NEW SECTION. **Sec. 8.** (1) The judicial officer must hold a hearing in cases involving offenses prescribed in Article 1, section 20, to determine whether any condition or combination of conditions will reasonably assure the safety of any other person and the community upon motion of the attorney for the government.

(2) The hearing must be held immediately upon the defendant's first appearance before the judicial officer unless the defendant, or the attorney for the government, seeks a continuance. Except for good cause, a continuance on motion of such person may not exceed five days (not including any intermediate Saturday, Sunday, or legal holiday), and a continuance on motion of the attorney for the government may not exceed three days (not including any intermediate Saturday, Sunday, or legal holiday). During a continuance, such person must be detained.

(3) At the hearing, such defendant has the right to be represented by counsel, and, if financially unable to obtain representation, to have counsel appointed. The defendant must be afforded an opportunity to testify, to present witnesses, to cross-examine witnesses who appear at the hearing, and to present information by proffer or otherwise. The rules concerning admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the hearing. The facts the judicial officer uses to support a finding that no condition or combination of conditions will reasonably assure the safety of any other person and the community must be supported by clear and convincing evidence of a propensity for violence that creates a substantial likelihood of danger to the community or any persons.

(4) The defendant may be detained pending completion of the hearing. The hearing may be reopened, before or after a determination by the judicial officer, at any time before trial if the judicial officer finds that information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue whether there are conditions of release that will reasonably assure the safety of any other person and the community.

NEW SECTION. **Sec. 9.** In a release order issued under section 5 of this act the judicial officer must:

(1) Include a written statement that sets forth all the conditions to which the release is subject, in a manner sufficiently clear and specific to serve as a guide for the defendant's conduct; and

(2) Advise the defendant of:

(a) The penalties for violating a condition of release, including the penalties for committing an offense while on pretrial release; and

(b) The consequences of violating a condition of release, including the immediate issuance of a warrant for the defendant's arrest.

NEW SECTION. **Sec. 10.** (1) In a detention order issued under section 6 of this act, the judicial officer must:

(a) Include written findings of fact and a written statement of the reasons for the detention;

(b) Direct that the person be committed to the custody of the appropriate correctional authorities for confinement separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal; and

(c) Direct that the person be afforded reasonable opportunity for private consultation with counsel.

(2) The judicial officer may, by subsequent order, permit the temporary release of the person, in the custody of an appropriate law enforcement officer or other appropriate person, to the extent that the judicial officer determines such release to be necessary for preparation of the person's defense or for another compelling reason.

NEW SECTION. **Sec. 11.** Nothing in this chapter may be construed as modifying or limiting the presumption of innocence.

NEW SECTION. **Sec. 12.** Sections 3 through 11 of this act constitute a new chapter in Title 10 RCW.

NEW SECTION. **Sec. 13.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 14.** Sections 1 and 2 take effect January 1, 2011. Sections 3 through 10 take effect January 1, 2011, only if the proposed amendment to Article I, section 20 of the state Constitution proposed in House Joint Resolution No. 4220 is validly submitted to and is approved and ratified by the voters at the next general election. If the proposed amendment is not approved and ratified, sections 3 through 11 of this act are null and void in their entirety."

Senators Kline and Carrell spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kline, Hargrove and Carrell to House Bill No. 2625.

The motion by Senator Kline 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 "offenses;" strike the remainder of the title and insert "adding a new chapter to Title 10 RCW; providing a contingent effective date; and providing an expiration date."

MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 2625 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2625 as amended by the Senate

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2625 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator McCaslin

HOUSE BILL NO. 2625 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2742, by House Committee on Transportation (originally sponsored by Representatives Goodman, Liias, Sells, Hasegawa, Maxwell, Roberts, Jacks, Carlyle, Rolfes, Simpson, O'Brien and Morrell)

Addressing accountability for persons driving under the influence of intoxicating liquor or drugs.

The measure was read the second time.

MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.20.385 and 2008 c 282 s 9 are each amended to read as follows:

(1)(a) Beginning January 1, 2009, any person licensed under this chapter who is convicted of ((~~any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle in~~)) a violation of RCW 46.61.502 or 46.61.504((~~, other than vehicular homicide or vehicular assault~~)) or an equivalent local or out-of-state statute or ordinance, or a violation of RCW 46.61.520(1)(a) or 46.61.522(1)(b), or who has had or will have his or her license suspended, revoked, or denied under RCW 46.20.3101, may submit to the department an application for an ignition interlock driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is eligible to receive the license, may issue an ignition interlock driver's license.

(b) A person may apply for an ignition interlock driver's license anytime, including immediately after receiving the notices under RCW 46.20.308 or after his or her license is suspended, revoked, or denied. A person receiving an ignition interlock driver's license waives his or her right to a hearing or appeal under RCW 46.20.308.

(c) An applicant under this subsection shall provide proof to the satisfaction of the department that a functioning ignition interlock device has been installed on all vehicles operated by the person.

(i) The department shall require the person to maintain the device on all vehicles operated by the person and shall restrict the person to operating only vehicles equipped with the device, for the

remainder of the period of suspension, revocation, or denial. The installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours.

(ii) Subject to any periodic renewal requirements established by the department under this section and subject to any applicable compliance requirements under this chapter or other law, an ignition interlock driver's license granted upon a suspension or revocation under RCW 46.61.5055 or 46.20.3101 extends through the remaining portion of any concurrent or consecutive suspension or revocation that may be imposed as the result of administrative action and criminal conviction arising out of the same incident.

(iii) The time period during which the person is licensed under this section shall apply on a day-for-day basis toward satisfying the period of time the ignition interlock device restriction is required under RCW 46.20.720 and 46.61.5055.

(2) An applicant for an ignition interlock driver's license who qualifies under subsection (1) of this section is eligible to receive a license only if((:

~~(a) Within seven years immediately preceding the date of the offense that gave rise to the present conviction or incident, the applicant has not committed vehicular homicide under RCW 46.61.520 or vehicular assault under RCW 46.61.522; and~~

~~(b)~~)) the applicant files satisfactory proof of financial responsibility under chapter 46.29 RCW.

(3) Upon receipt of evidence that a holder of an ignition interlock driver's license granted under this subsection no longer has a functioning ignition interlock device installed on all vehicles operated by the driver, the director shall give written notice by first-class mail to the driver that the ignition interlock driver's license shall be canceled. ((~~The effective date of cancellation shall be fifteen days from the date of mailing the notice.~~)) If at any time before the cancellation goes into effect the driver submits evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver, the cancellation shall be stayed. If the cancellation becomes effective, the driver may obtain, at no additional charge, a new ignition interlock driver's license upon submittal of evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver.

(4) A person aggrieved by the decision of the department on the application for an ignition interlock driver's license may request a hearing as provided by rule of the department.

(5) The director shall cancel an ignition interlock driver's license ((~~upon receipt of~~)) after receiving notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, no longer meets the eligibility requirements, or ((~~of~~)) has been convicted of or found to have committed a separate offense or any other act or omission that under this chapter would warrant suspension or revocation of a regular driver's license. The department must give notice of the cancellation ((~~is effective as of the date of the conviction, and continues with the same force and effect as any suspension or revocation under this title~~)) as provided under RCW 46.20.245. A person whose ignition interlock driver's license has been canceled under this section may reapply for a new ignition interlock driver's license if he or she is otherwise qualified under this section and pays the fee required under RCW 46.20.380.

(6)(a) Unless costs are waived by the ignition interlock company or the person is indigent under RCW 10.101.010, the applicant shall pay the cost of installing, removing, and leasing the ignition interlock device and shall pay an additional fee of twenty dollars per month. Payments shall be made directly to the ignition interlock company. The company shall remit the additional twenty-dollar fee to the department.

(b) The department shall deposit the proceeds of the twenty-dollar fee into the ignition interlock device revolving account. Expenditures from the account may be used only to administer and operate the ignition interlock device revolving account program. The department shall adopt rules to provide monetary assistance according to greatest need and when funds are available.

(7) The department shall adopt rules to implement ignition interlock licensing. The department shall consult with the administrative office of the courts, the state patrol, the Washington association of sheriffs and police chiefs, ignition interlock companies, and any other organization or entity the department deems appropriate.

Sec. 2. RCW 46.20.391 and 2008 c 282 s 6 are each amended to read as follows:

(1) Any person licensed under this chapter who is convicted of an offense relating to motor vehicles for which suspension or revocation of the driver's license is mandatory, other than vehicular homicide, vehicular assault, driving while under the influence of intoxicating liquor or any drug, or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, may submit to the department an application for a temporary restricted driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is eligible to receive the license, may issue a temporary restricted driver's license and may set definite restrictions as provided in RCW 46.20.394.

(2)(a) A person licensed under this chapter whose driver's license is suspended administratively due to failure to appear or pay a traffic ticket under RCW 46.20.289; a violation of the financial responsibility laws under chapter 46.29 RCW; or for multiple violations within a specified period of time under RCW 46.20.291, may apply to the department for an occupational driver's license.

(b) If the suspension is for failure to respond, pay, or comply with a notice of traffic infraction or conviction, the applicant must enter into a payment plan with the court.

(c) An occupational driver's license issued to an applicant described in (a) of this subsection shall be valid for the period of the suspension or revocation.

(3) An applicant for an occupational or temporary restricted driver's license who qualifies under subsection (1) or (2) of this section is eligible to receive such license only if:

(a) Within seven years immediately preceding the date of the offense that gave rise to the present conviction or incident, the applicant has not committed vehicular homicide under RCW 46.61.520 or vehicular assault under RCW 46.61.522; and

(b) The applicant demonstrates that it is necessary for him or her to operate a motor vehicle because he or she:

(i) Is engaged in an occupation or trade that makes it essential that he or she operate a motor vehicle;

(ii) Is undergoing continuing health care or providing continuing care to another who is dependent upon the applicant;

(iii) Is enrolled in an educational institution and pursuing a course of study leading to a diploma, degree, or other certification of successful educational completion;

(iv) Is undergoing substance abuse treatment or is participating in meetings of a twelve-step group such as Alcoholics Anonymous that requires the petitioner to drive to or from the treatment or meetings;

(v) Is fulfilling court-ordered community service responsibilities;

(vi) Is in a program that assists persons who are enrolled in a WorkFirst program pursuant to chapter 74.08A RCW to become gainfully employed and the program requires a driver's license;

(vii) Is in an apprenticeship, on-the-job training, or welfare-to-work program; or

(viii) Presents evidence that he or she has applied for a position in an apprenticeship or on-the-job training program for which a driver's license is required to begin the program, provided that a license granted under this provision shall be in effect for no longer than fourteen days; and

(c) The applicant files satisfactory proof of financial responsibility under chapter 46.29 RCW; and

(d) Upon receipt of evidence that a holder of an occupational driver's license granted under this subsection is no longer enrolled in an apprenticeship or on-the-job training program, the director shall give written notice by first-class mail to the driver that the occupational driver's license shall be canceled. ((~~The effective date of cancellation shall be fifteen days from the date of mailing the notice.~~)) If at any time before the cancellation goes into effect the driver submits evidence of continued enrollment in the program, the cancellation shall be stayed. If the cancellation becomes effective, the driver may obtain, at no additional charge, a new occupational driver's license upon submittal of evidence of enrollment in another program that meets the criteria set forth in this subsection; and

(e) The department shall not issue an occupational driver's license under (b)(iv) of this subsection if the applicant is able to receive transit services sufficient to allow for the applicant's participation in the programs referenced under (b)(iv) of this subsection.

(4) A person aggrieved by the decision of the department on the application for an occupational or temporary restricted driver's license may request a hearing as provided by rule of the department.

(5) The director shall cancel an occupational or temporary restricted driver's license ((~~upon receipt of~~)) after receiving notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, no longer meets the eligibility requirements, or ((~~of~~)) has been convicted of or found to have committed a separate offense or any other act or omission that under this chapter ((~~46.20 RCW~~)) would warrant suspension or revocation of a regular driver's license. The department must give notice of the cancellation ((~~is effective as of the date of the conviction, and continues with the same force and effect as any suspension or revocation under this title~~)) as provided under RCW 46.20.245. A person whose occupational or temporary restricted driver's license has been canceled under this section may reapply for a new occupational or temporary restricted driver's license if he or she is otherwise qualified under this section and pays the fee required under RCW 46.20.380.

Sec. 3. RCW 46.20.720 and 2008 c 282 s 12 are each amended to read as follows:

(1) The court may order that after a period of suspension, revocation, or denial of driving privileges, and for up to as long as the court has jurisdiction, any person convicted of any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle may drive only a motor vehicle equipped with a functioning ignition interlock. The court shall establish a specific calibration setting at which the interlock will prevent the vehicle from being started. The court shall also establish the period of time for which interlock use will be required.

(2) Under RCW 46.61.5055((~~, 10.05.020, or section 18 of this act~~)) and subject to the exceptions listed in that statute, the court shall order any person convicted of ((~~an alcohol related~~)) a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance ((~~or participating in a deferred prosecution program under RCW 10.05.020 or section 18 of this act for an alcohol related violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance~~)) to apply for an ignition interlock driver's license from the department under RCW 46.20.385 and to have a functioning ignition interlock device installed on all motor vehicles operated by the person.

(3) The department shall require that, after any applicable period of suspension, revocation, or denial of driving privileges, a person may drive only a motor vehicle equipped with a functioning ignition interlock device if the person is convicted of ((~~an alcohol related~~)) a violation of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state statute or ordinance.

The department may waive the requirement for the use of such a device if it concludes that such devices are not reasonably available in the local area. The installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours.

The ignition interlock device shall be calibrated to prevent the motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more. Subject to the provisions of subsection (4) of this section, the period of time of the restriction will be ((~~as follows~~)) no less than:

(a) For a person who has not previously been restricted under this section, a period of one year;

(b) For a person who has previously been restricted under (a) of this subsection, a period of five years;

(c) For a person who has previously been restricted under (b) of this subsection, a period of ten years.

(4) A restriction imposed under subsection (3) of this section shall remain in effect until the department receives a declaration from the person's ignition interlock device vendor, in a form provided or approved by the department, certifying that there have been none of the following incidents in the four consecutive months prior to the date of release:

(a) An attempt to start the vehicle with a breath alcohol concentration of 0.04 or more;

(b) Failure to take or pass any required retest; or

(c) Failure of the person to appear at the ignition interlock device vendor when required for maintenance, repair, calibration, monitoring, inspection, or replacement of the device.

Sec. 4. RCW 46.61.5055 and 2008 c 282 s 14 are each amended to read as follows:

(1) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has no prior offense within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than one year. Twenty-four consecutive hours of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(a)(i), the court may order not less than

fifteen days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than one year. Two consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(b)(i), the court may order not less than thirty days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(2) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than one year and sixty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Thirty days of imprisonment and sixty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than one year and ninety days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Forty-five days of imprisonment and ninety days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(3) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two or three prior offenses within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than one year and one hundred twenty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Ninety days of imprisonment and one hundred twenty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than one year and one hundred fifty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. One hundred twenty days of imprisonment and one hundred fifty days of electronic home

monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(4) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 shall be punished under chapter 9.94A RCW if: (a) The person has four or more prior offenses within ten years; or (b) the person has ever previously been convicted of: (i) A violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug; (ii) a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug; or (iii) an out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection.

(5)(a) The court shall require any person convicted of ((~~an alcohol related~~)) a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to apply for an ignition interlock driver's license from the department ((~~under RCW 46.20.385~~)) and to have a functioning ignition interlock device installed on all motor vehicles operated by the person.

(b) The installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours.

(c) An ignition interlock device imposed under this section shall be calibrated to prevent a motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more.

(d) The court may waive the requirement that a person ((~~obtain~~)) apply for an ignition interlock driver's license ((~~and operate only vehicles equipped with a functioning ignition interlock device~~)) if the court makes a specific finding in writing that:

(i) The person lives out-of-state and the devices are not reasonably available in the person's local area((~~, that~~));

(ii) The person does not operate a vehicle((~~,~~)); or

(iii) The person is not eligible to receive an ignition interlock driver's license under RCW 46.20.385 because the person is not a resident of Washington, is a habitual traffic offender, has already applied for or is already in possession of an ignition interlock driver's license, has never had a driver's license, has been certified under chapter 74.20A RCW as noncompliant with a child support order, or is subject to any other condition or circumstance that makes the person ineligible to obtain an ignition interlock driver's license.

(e) ((~~When the requirement~~)) If a court finds that a person is not eligible to receive an ignition interlock driver's license under this section, the court is not required to make any further subsequent inquiry or determination as to the person's eligibility.

(f) If the court orders that a person ((~~obtain~~)) refrain from consuming any alcohol and requires the person to apply for an ignition interlock driver's license ((~~and operate only vehicles equipped with a functioning ignition interlock device is waived by the court~~)), and the person states that he or she does not operate a motor vehicle or the person is ineligible to obtain an ignition interlock driver's license, the court shall order the person to submit to alcohol monitoring through an alcohol detection breathalyzer device, transdermal sensor device, or other technology designed to detect alcohol in a person's system. The person shall pay for the cost of the monitoring. The county or municipality where the penalty is being imposed shall determine the cost.

((~~(f)~~)) (g) The period of time for which ignition interlock use or alcohol monitoring is required will be as follows:

(i) For a person who has not previously been restricted under this section, a period of one year;

(ii) For a person who has previously been restricted under ((~~(f)~~)) (g)(i) of this subsection, a period of five years;

(iii) For a person who has previously been restricted under ((~~(f)~~)) (g)(ii) of this subsection, a period of ten years.

(6) If a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 committed the offense while a passenger under the age of sixteen was in the vehicle, the court shall:

(a) In any case in which the installation and use of an interlock or other device is not mandatory under RCW 46.20.720 or other law, order the use of such a device for not less than sixty days following the restoration of the person's license, permit, or nonresident driving privileges; and

(b) In any case in which the installation and use of such a device is otherwise mandatory, order the use of such a device for an additional sixty days.

(7) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider the following:

(a) Whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property; and

(b) Whether at the time of the offense the person was driving or in physical control of a vehicle with one or more passengers.

(8) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

(9) The license, permit, or nonresident privilege of a person convicted of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs must:

(a) If the person's alcohol concentration was less than 0.15, or if for reasons other than the person's refusal to take a test offered under RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) Where there has been no prior offense within seven years, be suspended or denied by the department for ninety days;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for two years; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for three years;

(b) If the person's alcohol concentration was at least 0.15:

(i) Where there has been no prior offense within seven years, be revoked or denied by the department for one year;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for nine hundred days; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for four years; or

(c) If by reason of the person's refusal to take a test offered under RCW 46.20.308, there is no test result indicating the person's alcohol concentration:

(i) Where there have been no prior offenses within seven years, be revoked or denied by the department for two years;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for three years; or

(iii) Where there have been two or more previous offenses within seven years, be revoked or denied by the department for four years.

The department shall grant credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under this subsection for a suspension, revocation, or denial imposed under RCW 46.20.3101 arising out of the same incident.

For purposes of this subsection (9), the department shall refer to the driver's record maintained under RCW 46.52.120 when determining the existence of prior offenses.

(10) After expiration of any period of suspension, revocation, or denial of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

(11)(a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes less than one year in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding five years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (ii) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i), (ii), or (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

(12) A court may waive the electronic home monitoring requirements of this chapter when:

(a) The offender does not have a dwelling, telephone service, or any other necessity to operate an electronic home monitoring system;

(b) The offender does not reside in the state of Washington; or

(c) The court determines that there is reason to believe that the offender would violate the conditions of the electronic home monitoring penalty.

Whenever the mandatory minimum term of electronic home monitoring is waived, the court shall state in writing the reason for granting the waiver and the facts upon which the waiver is based, and shall impose an alternative sentence with similar punitive consequences. The alternative sentence may include, but is not limited to, additional jail time, work crew, or work camp.

Whenever the combination of jail time and electronic home monitoring or alternative sentence would exceed three hundred sixty-five days, the offender shall serve the jail portion of the sentence first, and the electronic home monitoring or alternative portion of the sentence shall be reduced so that the combination does not exceed three hundred sixty-five days.

(13) An offender serving a sentence under this section, whether or not a mandatory minimum term has expired, may be granted an extraordinary medical placement by the jail administrator subject to the standards and limitations set forth in RCW 9.94A.728((~~(4)~~)) (3).

(14) For purposes of this section and RCW 46.61.502 and 46.61.504:

(a) A "prior offense" means any of the following:

(i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;

(ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;

(iii) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(iv) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(v) A conviction for a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050 or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(vi) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (iii), (iv), or (v) of this subsection if committed in this state;

(vii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance; or

(viii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.5249, or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

If a deferred prosecution is revoked based on a subsequent conviction for an offense listed in this subsection (14)(a), the subsequent conviction shall not be treated as a prior offense of the revoked deferred prosecution for the purposes of sentencing;

(b) "Within seven years" means that the arrest for a prior offense occurred within seven years ((~~of~~)) before or after the arrest for the current offense; and

(c) "Within ten years" means that the arrest for a prior offense occurred within ten years ((~~of~~)) before or after the arrest for the current offense.

NEW SECTION. **Sec. 5.** A new section is added to chapter 46.61 RCW to read as follows:

If a person is required, as part of the person's judgment and sentence, to install an ignition interlock device on all motor vehicles operated by the person and the person is under the jurisdiction of the municipality or county probation or supervision department, the probation or supervision department must verify the installation of the ignition interlock device or devices. The municipality or county probation or supervision department satisfies the requirement to verify the installation or installations if the municipality or county probation or supervision department receives written verification by one or more companies doing business in the state that it has installed the required device on each vehicle owned or operated by the person. The municipality or county shall have no further obligation to supervise the use of the ignition interlock device or devices by the person and shall not be civilly liable for any injuries or damages caused by the person for failing to use an ignition interlock device or for driving under the influence of intoxicating liquor or any drug or being in actual physical control of a motor vehicle under the influence of intoxicating liquor or any drug.

Sec. 6. RCW 46.20.410 and 2008 c 282 s 8 are each amended to read as follows:

(1) Any person convicted for violation of any restriction of an occupational driver's license((,)) or a temporary restricted driver's license((, or an ignition interlock driver's license)) shall in addition to the ((immediate revocation)) cancellation of such license and any other penalties provided by law be fined not less than fifty nor more than two hundred dollars or imprisoned for not more than six months or both such fine and imprisonment.

(2) It is a gross misdemeanor for a person to violate any restriction of an ignition interlock driver's license.

Sec. 7. RCW 46.20.342 and 2008 c 282 s 4 are each amended to read as follows:

(1) It is unlawful for any person to drive a motor vehicle in this state while that person is in a suspended or revoked status or when his or her privilege to drive is suspended or revoked in this or any other state. Any person who has a valid Washington driver's license is not guilty of a violation of this section.

(a) A person found to be an habitual offender under chapter 46.65 RCW, who violates this section while an order of revocation issued under chapter 46.65 RCW prohibiting such operation is in effect, is guilty of driving while license suspended or revoked in the first degree, a gross misdemeanor. Upon the first such conviction, the person shall be punished by imprisonment for not less than ten days. Upon the second conviction, the person shall be punished by imprisonment for not less than ninety days. Upon the third or subsequent conviction, the person shall be punished by imprisonment for not less than one hundred eighty days. If the person is also convicted of the offense defined in RCW 46.61.502 or 46.61.504, when both convictions arise from the same event, the minimum sentence of confinement shall be not less than ninety days. The minimum sentence of confinement required shall not be suspended or deferred. A conviction under this subsection does not prevent a person from petitioning for reinstatement as provided by RCW 46.65.080.

(b) A person who violates this section while an order of suspension or revocation prohibiting such operation is in effect and while the person is not eligible to reinstate his or her driver's license or driving privilege, other than for a suspension for the reasons described in (c) of this subsection, is guilty of driving while license suspended or revoked in the second degree, a gross misdemeanor. For the purposes of this subsection, a person is not considered to be eligible to reinstate his or her driver's license or driving privilege if the person is eligible to obtain an ignition interlock driver's license but did not obtain such a license. This subsection applies when a person's driver's license or driving privilege has been suspended or revoked by reason of:

(i) A conviction of a felony in the commission of which a motor vehicle was used;

(ii) A previous conviction under this section;

(iii) A notice received by the department from a court or diversion unit as provided by RCW 46.20.265, relating to a minor who has committed, or who has entered a diversion unit concerning an offense relating to alcohol, legend drugs, controlled substances, or imitation controlled substances;

(iv) A conviction of RCW 46.20.410, relating to the violation of restrictions of an occupational driver's license, a temporary restricted driver's license, or an ignition interlock driver's license;

(v) A conviction of RCW 46.20.345, relating to the operation of a motor vehicle with a suspended or revoked license;

(vi) A conviction of RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(vii) A conviction of RCW 46.61.024, relating to attempting to elude pursuing police vehicles;

(viii) A conviction of RCW 46.61.500, relating to reckless driving;

(ix) A conviction of RCW 46.61.502 or 46.61.504, relating to a person under the influence of intoxicating liquor or drugs;

(x) A conviction of RCW 46.61.520, relating to vehicular homicide;

(xi) A conviction of RCW 46.61.522, relating to vehicular assault;

(xii) A conviction of RCW 46.61.527(4), relating to reckless endangerment of roadway workers;

(xiii) A conviction of RCW 46.61.530, relating to racing of vehicles on highways;

(xiv) A conviction of RCW 46.61.685, relating to leaving children in an unattended vehicle with motor running;

(xv) A conviction of RCW 46.61.740, relating to theft of motor vehicle fuel;

(xvi) A conviction of RCW 46.64.048, relating to attempting, aiding, abetting, coercing, and committing crimes;

(xvii) An administrative action taken by the department under chapter 46.20 RCW; or

(xviii) A conviction of a local law, ordinance, regulation, or resolution of a political subdivision of this state, the federal government, or any other state, of an offense substantially similar to a violation included in this subsection.

(c) A person who violates this section when his or her driver's license or driving privilege is, at the time of the violation, suspended or revoked solely because (i) the person must furnish proof of satisfactory progress in a required alcoholism or drug treatment program, (ii) the person must furnish proof of financial responsibility for the future as provided by chapter 46.29 RCW, (iii) the person has failed to comply with the provisions of chapter 46.29 RCW relating to uninsured accidents, (iv) the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, as provided in RCW 46.20.289, (v) the person has committed an offense in another state that, if committed in this state, would not be grounds for the suspension or revocation of the person's driver's license, (vi) the person has been suspended or revoked by reason of one or more of the items listed in (b) of this subsection, but was eligible to reinstate his or her driver's license or driving privilege at the time of the violation, or (vii) the person has received traffic citations or notices of traffic infraction that have resulted in a suspension under RCW 46.20.267 relating to intermediate drivers' licenses, or any combination of (i) through (vii), is guilty of driving while license suspended or revoked in the third degree, a misdemeanor. For the purposes of this subsection, a person is not considered to be eligible to reinstate his or her driver's license or driving privilege if the person is eligible to obtain an ignition interlock driver's license but did not obtain such a license.

(2) Upon receiving a record of conviction of any person or upon receiving an order by any juvenile court or any duly authorized court officer of the conviction of any juvenile under this section, the department shall:

(a) For a conviction of driving while suspended or revoked in the first degree, as provided by subsection (1)(a) of this section, extend the period of administrative revocation imposed under chapter 46.65 RCW for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(b) For a conviction of driving while suspended or revoked in the second degree, as provided by subsection (1)(b) of this section, not issue a new license or restore the driving privilege for an additional period of one year from and after the date the person

would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(c) Not extend the period of suspension or revocation if the conviction was under subsection (1)(c) of this section. If the conviction was under subsection (1)(a) or (b) of this section and the court recommends against the extension and the convicted person has obtained a valid driver's license, the period of suspension or revocation shall not be extended.

Sec. 8. RCW 46.20.740 and 2008 c 282 s 13 are each amended to read as follows:

(1) The department shall attach or imprint a notation on the driving record of any person restricted under RCW 46.20.720 ((~~or~~)), 46.61.5055, or 10.05.140 stating that the person may operate only a motor vehicle equipped with a functioning ignition interlock device. The department shall determine the person's eligibility for licensing based upon written verification by a company doing business in the state that it has installed the required device on a vehicle owned or operated by the person seeking reinstatement. If, based upon notification from the interlock provider or otherwise, the department determines that an ignition interlock required under this section is no longer installed or functioning as required, the department shall suspend the person's license or privilege to drive. Whenever the license or driving privilege of any person is suspended or revoked as a result of noncompliance with an ignition interlock requirement, the suspension shall remain in effect until the person provides notice issued by a company doing business in the state that a vehicle owned or operated by the person is equipped with a functioning ignition interlock device.

(2) It is a gross misdemeanor for a person with such a notation on his or her driving record to operate a motor vehicle that is not so equipped.

Sec. 9. RCW 10.05.020 and 2008 c 282 s 16 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section ((~~or section 18 of this act~~)), the petitioner shall allege under oath in the petition that the wrongful conduct charged is the result of or caused by alcoholism, drug addiction, or mental problems for which the person is in need of treatment and unless treated the probability of future recurrence is great, along with a statement that the person agrees to pay the cost of a diagnosis and treatment of the alleged problem or problems if financially able to do so. The petition shall also contain a case history and written assessment prepared by an approved alcoholism treatment program as designated in chapter 70.96A RCW if the petition alleges alcoholism, an approved drug program as designated in chapter 71.24 RCW if the petition alleges drug addiction, or by an approved mental health center if the petition alleges a mental problem.

(2) In the case of a petitioner charged with a misdemeanor or gross misdemeanor under chapter 9A.42 RCW, the petitioner shall allege under oath in the petition that the petitioner is the natural or adoptive parent of the alleged victim; that the wrongful conduct charged is the result of parenting problems for which the petitioner is in need of services; that the petitioner is in need of child welfare services under chapter 74.13 RCW to improve his or her parenting skills in order to better provide his or her child or children with the basic necessities of life; that the petitioner wants to correct his or her conduct to reduce the likelihood of harm to his or her minor children; that in the absence of child welfare services the petitioner may be unable to reduce the likelihood of harm to his or her minor children; and that the petitioner has cooperated with the department of social and health services to develop a plan to receive appropriate child welfare services; along with a statement that the person agrees to pay the cost of the services if he or she is financially able to do so. The petition shall also contain a case history and a written service plan from the department of social and health services.

(3) Before entry of an order deferring prosecution, a petitioner shall be advised of his or her rights as an accused and execute, as a condition of receiving treatment, a statement that contains: (a) An acknowledgment of his or her rights; (b) an acknowledgment and waiver of the right to testify, the right to a speedy trial, the right to call witnesses to testify, the right to present evidence in his or her defense, and the right to a jury trial; (c) a stipulation to the admissibility and sufficiency of the facts contained in the written police report; and (d) an acknowledgment that the statement will be entered and used to support a finding of guilty if the court finds cause to revoke the order granting deferred prosecution. The petitioner shall also be advised that he or she may, if he or she proceeds to trial and is found guilty, be allowed to seek suspension of some or all of the fines and incarceration that may be ordered upon the condition that he or she seek treatment and, further, that he or she may seek treatment from public and private agencies at any time without regard to whether or not he or she is found guilty of the offense charged. He or she shall also be advised that the court will not accept a petition for deferred prosecution from a person who: (i) Sincerely believes that he or she is innocent of the charges; (ii) sincerely believes that he or she does not, in fact, suffer from alcoholism, drug addiction, or mental problems((~~, unless the petition for deferred prosecution is under section 18 of this act~~)); or (iii) in the case of a petitioner charged under chapter 9A.42 RCW, sincerely believes that he or she does not need child welfare services.

(4) Before entering an order deferring prosecution, the court shall make specific findings that: (a) The petitioner has stipulated to the admissibility and sufficiency of the facts as contained in the written police report; (b) the petitioner has acknowledged the admissibility of the stipulated facts in any criminal hearing on the underlying offense or offenses held subsequent to revocation of the order granting deferred prosecution; (c) the petitioner has acknowledged and waived the right to testify, the right to a speedy trial, the right to call witnesses to testify, the right to present evidence in his or her defense, and the right to a jury trial; and (d) the petitioner's statements were made knowingly and voluntarily. Such findings shall be included in the order granting deferred prosecution.

Sec. 10. RCW 10.05.090 and 2008 c 282 s 17 are each amended to read as follows:

If a petitioner, who has been accepted for a deferred prosecution, fails or neglects to carry out and fulfill any term or condition of the petitioner's treatment plan or any term or condition imposed in connection with the installation of an interlock or other device under RCW 46.20.720 ((~~or 46.20.385~~)), the facility, center, institution, or agency administering the treatment or the entity administering the use of the device, shall immediately report such breach to the court, the prosecutor, and the petitioner or petitioner's attorney of record, together with its recommendation. The court upon receiving such a report shall hold a hearing to determine whether the petitioner should be removed from the deferred prosecution program. At the hearing, evidence shall be taken of the petitioner's alleged failure to comply with the treatment plan or device installation and the petitioner shall have the right to present evidence on his or her own behalf. The court shall either order that the petitioner continue on the treatment plan or be removed from deferred prosecution. ((~~If the petitioner's noncompliance is based on a violation of a term or condition imposed in connection with the installation of an ignition interlock device under RCW 46.20.385, the court shall either order that the petitioner comply with the term or condition or be removed from deferred prosecution.~~)) If removed from deferred prosecution, the court shall enter judgment pursuant to RCW 10.05.020 and, if the charge for which the deferred prosecution was granted was a misdemeanor or gross

misdemeanor under Title 46 RCW, shall notify the department of licensing of the removal and entry of judgment.

Sec. 11. RCW 10.05.160 and 2008 c 282 s 19 are each amended to read as follows:

The prosecutor may appeal an order granting deferred prosecution on any or all of the following grounds:

(1) Prior deferred prosecution has been granted to the defendant;

(2) Failure of the court to obtain proof of insurance or a treatment plan conforming to the requirements of this chapter;

(3) Failure of the court to comply with the requirements of RCW 10.05.100;

(4) Failure of the evaluation facility to provide the information required in RCW 10.05.040 and 10.05.050, if the defendant has been referred to the facility for treatment. If an appeal on such basis is successful, the trial court may consider the use of another treatment program;

(5) Failure of the court to order the installation of an ignition interlock or other device under RCW ((~~46.20.720 or 46.20.385~~)) 10.05.140.

NEW SECTION. **Sec. 12.** This act takes effect January 1, 2011."

MOTION

Senator Brandland moved that the following amendment by Senators Brandland and Kline to the committee striking amendment be adopted.

On page 18, line 26 of the amendment, after "device on" strike "each" and insert "a"

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

The President declared the question before the Senate to be the adoption of the amendment by Senators Brandland and Kline on page 18, line 26 to the committee striking amendment to Second Substitute House Bill No. 2742.

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary as amended to Second Substitute House Bill No. 2742.

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

MOTION

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

On page 1, line 2 of the title, after "drugs;" strike the remainder of the title and insert "amending RCW 46.20.385, 46.20.391, 46.20.720, 46.61.5055, 46.20.410, 46.20.342, 46.20.740, 10.05.020, 10.05.090, and 10.05.160; adding a new section to chapter 46.61 RCW; prescribing penalties; and providing an effective date."

MOTION

On motion of Senator Kline, the rules were suspended, Second Substitute House Bill No. 2742 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2742 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2742 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator McCaslin

SECOND SUBSTITUTE HOUSE BILL NO. 2742 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2697, by Representatives Conway and Condotta

Concerning real estate broker licensure fees.

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, House Bill No. 2697 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2697.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2697 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 4; Absent, 0; Excused, 1.

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

Voting nay: Senators Carrell, Holmquist, Morton and Stevens

Excused: Senator McCaslin

HOUSE BILL NO. 2697, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3026, by House Committee on Ways & Means (originally sponsored by Representatives Santos, Quall, Chase, Upthegrove, Kenney, Hunt, Nelson, Liias, McCoy, Hudgins, Simpson and Darneille)

Regarding school district compliance with state and federal civil rights laws.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that in 1975 legislation was adopted, codified as chapter 28A.640 RCW, recognizing the deleterious effect of discrimination on the basis of sex, specifically prohibiting such discrimination in Washington public schools, and requiring the office of the superintendent of public instruction to monitor and enforce compliance. The legislature further finds that, while numerous state and federal laws prohibit discrimination on other bases in addition to sex, the common school provisions in Title 28A RCW do not include specific acknowledgment of the right to be free from discrimination because of race, creed, color, national origin, honorably discharged veteran or military status, sexual orientation, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability, nor do any common school provisions specifically direct the office of the superintendent of public instruction to monitor and enforce compliance with these laws. The legislature finds that one of the recommendations made to the legislature by the achievement gap oversight and accountability committee created in chapter 468, Laws of 2009, was that the office of the superintendent of public instruction should be specifically authorized to take affirmative steps to ensure that school districts comply with all civil rights laws, similar to what has already been authorized in chapter 28A.640 RCW with respect to discrimination on the basis of sex.

NEW SECTION. **Sec. 2.** Discrimination in Washington public schools on the basis of race, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation including gender expression or identity, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability is prohibited. The definitions given these terms in chapter 49.60 RCW apply throughout this chapter unless the context clearly requires otherwise.

NEW SECTION. **Sec. 3.** The superintendent of public instruction shall develop rules and guidelines to eliminate discrimination prohibited in section 2 of this act as it applies to public school employment, counseling and guidance services to students, recreational and athletic activities for students, access to course offerings, and in textbooks and instructional materials used by students.

NEW SECTION. **Sec. 4.** The office of the superintendent of public instruction shall monitor local school districts' compliance with this chapter, and shall establish a compliance timetable, rules, and guidelines for enforcement of this chapter.

NEW SECTION. **Sec. 5.** Any person aggrieved by a violation of this chapter, or aggrieved by the violation of any rule or guideline adopted under this chapter, has a right of action in superior court for civil damages and such equitable relief as the court determines.

NEW SECTION. **Sec. 6.** The superintendent of public instruction has the power to enforce and obtain compliance with the provisions of this chapter and the rules and guidelines adopted under this chapter, by appropriate order made pursuant to chapter 34.05 RCW. The order may include, but is not limited to, termination of all or part of state apportionment or categorical moneys to the offending school district, termination of specified programs in which violations may be flagrant within the offending school district, institution of corrective action, and the placement of the offending school district on probation with appropriate sanctions until compliance is achieved.

NEW SECTION. **Sec. 7.** This chapter is supplementary to, and does not supersede, existing law and procedures and future amendments to those laws and procedures relating to unlawful discrimination.

NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act constitute a new chapter in Title 28A RCW.

NEW SECTION. **Sec. 9.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2010, in the omnibus appropriations act, this act is null and void."

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

MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford to the committee striking amendment be adopted:

On page 2, after line 15, strike all of section 5.

Renumber the sections consecutively and correct any internal references accordingly.

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

Senator Gordon spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 2, after line 15 to the committee striking amendment to Engrossed Second Substitute House Bill No. 3026.

The motion by Senator Honeyford failed and the amendment to the committee striking amendment was not adopted by voice vote.

MOTION

Senator King moved that the following amendment by Senator King to the committee striking amendment be adopted:

On page 2, line 18, after "has" insert ", following exhaustion of applicable administrative remedies,"

Senators King, Pflug and Honeyford spoke in favor of adoption of the amendment to the committee striking amendment.

Senators Gordon and Kline spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator King on page 2, line 18 to the committee striking amendment to Engrossed Second Substitute House Bill No. 3026.

The motion by Senator King failed and the amendment to the committee striking amendment was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Second Substitute House Bill No. 3026.

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

MOTION

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

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

MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed Second Substitute House Bill No. 3026 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe, Franklin, Kohl-Welles and Gordon spoke in favor of passage of the bill.

Senators Honeyford, King, Hewitt, Schoesler and Pflug spoke against passage of the bill.

POINT OF ORDER

Senator McAuliffe: "I am concerned that the Senator is impugning our motives."

REPLY BY THE PRESIDENT

President Owen: "I don't believe the President heard that but please be careful Senator Pflug."

Senator Oemig spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 3026 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 3026 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 30; Nays, 18; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Haugen, Hobbs, Jacobsen, 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, Brandland, Carrell, Delvin, Hargrove, Hatfield, Hewitt, Holmquist, Honeyford, King, Morton, Parlette, Pflug, Roach, Schoesler, Stevens, Swecker and Zarelli

Excused: Senator McCaslin

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3026 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 5:21 p.m., on motion of Senator Eide, the Senate adjourned until 8:30 a.m. Saturday, March 6, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate