EIGHTY FIFTH DAY

NOON SESSION

Senate Chamber, Olympia, Monday, April 4, 2011

The Senate was called to order at 12:00 noon by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senator Hargrove.

The Sergeant at Arms Color Guard consisting of Pages Abishai Thomas and Evan Haugen, presented the Colors. Reverend Jim Erlandson of Community of Christ Church of Olympia offered the prayer.

MOTION

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

MOTION

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

MESSAGE FROM THE GOVERNOR
GUBERNATORIAL APPOINTMENTS

March 22, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

STANLEY M. SORSCHER, appointed March 22, 2011, for the term ending October 1, 2014, as Member of the Small Business Export Finance Assistance Center Board of Directors.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Economic Development, Trade & Innovation.

March 22, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

ROBYN J. TODD, appointed March 22, 2011, for the term ending October 1, 2014, as Member of the Small Business Export Finance Assistance Center Board of Directors.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Economic Development, Trade & Innovation.

MOTION

On motion of Senator Eide, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

MOTION

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

MESSAGE FROM THE HOUSE

April 1, 2011

MR. PRESIDENT:
The House has passed:
ENGROSSED SENATE BILL NO. 5058,
SUBSTITUTE SENATE BILL NO. 5115,
SENATE BILL NO. 5116,
SENATE BILL NO. 5149,
SENATE BILL NO. 5170,
SENATE BILL NO. 5213,
SENATE BILL NO. 5295,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5307.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 1, 2011

MR. PRESIDENT:
The House has passed:
SUBSTITUTE SENATE BILL NO. 5071,
SENATE BILL NO. 5224,
ENGROSSED SENATE BILL NO. 5242,
SENATE BILL NO. 5375,
SENATE BILL NO. 5388,
SENATE BILL NO. 5492,
SUBSTITUTE SENATE BILL NO. 5495,
SENATE BILL NO. 5501,
SUBSTITUTE SENATE BILL NO. 5538,
SUBSTITUTE SENATE BILL NO. 5574,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5594.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 1, 2011

MR. PRESIDENT:
The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:
SECOND SUBSTITUTE HOUSE BILL NO. 1362,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1489.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 1, 2011

MR. PRESIDENT:
The Speaker has signed:
ENGROSSED SUBSTITUTE SENATE BILL NO. 5124,
SUBSTITUTE SENATE BILL NO. 5157,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5747.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 1, 2011

MR. PRESIDENT:
The Speaker has signed:
HOUSE BILL NO. NO. 1016.
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 1, 2011

MR. PRESIDENT:
The Speaker has signed:
ENGROSSED HOUSE BILL NO. 1028,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1055,
HOUSE BILL NO. 1069,
HOUSE BILL NO. 1150,
SUBSTITUTE HOUSE BILL NO. 1294,
HOUSE BILL NO. 1298,
HOUSE BILL NO. 1412,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1572,
HOUSE BILL NO. 1618,
HOUSE BILL NO. 1649.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 1, 2011

MR. PRESIDENT:
The Speaker has signed:
HOUSE BILL NO. 1129,
SUBSTITUTE HOUSE BILL NO. 1247,
HOUSE BILL NO. 1345,
HOUSE BILL NO. 1347,
ENGROSSED HOUSE BILL NO. 1357,
HOUSE BILL NO. 1424,
HOUSE BILL NO. 1488,
SUBSTITUTE HOUSE BILL NO. 1571,
HOUSE BILL NO. 1694.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

MOTION

Senator Stevens moved adoption of the following resolution:

SENATE RESOLUTION
8648

By Senator Stevens

WHEREAS, The practice of engineering is a challenging intellectual field; and

WHEREAS, The study of fuel efficiency is gaining increased public and scientific attention due to concerns with climate change and foreign energy dependence; and

WHEREAS, Women are traditionally underrepresented in scientific fields, including engineering; and

WHEREAS, The Granite Falls ShopGirls team designed a diesel-powered vehicle that got a staggering 470 miles to the gallon; and

WHEREAS, The Granite Falls ShopGirls team triumphantly won first place in the diesel fuel design category in the Shell Eco-marathon competition; and

WHEREAS, The Granite Falls ShopGirls team was awarded one of three awards for compliance with Shell's Eco-marathon safety regulations; and

WHEREAS, The Granite Falls ShopGirls team is composed of dedicated and diligent students who have worked tirelessly for months to build an energy efficient car from scratch; and

WHEREAS, The key to the Granite Falls ShopGirls' success was the result of hard work and perseverance; and

WHEREAS, The outstanding students honorably recognized this day are Maia Hanson, Katherine Jackson, Erica Jensen, Semira Kern, Rita Mae-Hatch, Sara Rood, Pooja Sethi, Shanté Stowell, and Sarah Turner; and

WHEREAS, The strong leadership and encouragement from Michael Werner, the industrial arts teacher who worked with the ShopGirls team, is recognized;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor the Granite Falls ShopGirls team for their first place finish in the diesel fuel design competition and their top three finish for safety compliance; and

BE IT FURTHER RESOLVED, That Michael Werner, the industrial arts teacher who worked with the Granite Falls ShopGirls team, be applauded for his dedication and expertise in preparing students for the Shell Eco-marathon competition; and

BE IT FURTHER RESOLVED, That the families of the Granite Falls ShopGirls team be commended for their support of their daughters as they pursue their interests in alternative energy and engineering; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Secretary of the Senate to the Washington State Senate, Granite Falls High School, the Daily Herald, the Monroe Monitor, and the Skagit Valley Herald.

Senators Stevens and McAuliffe spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8648.

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

MOTION

On motion of Senator Ericksen, Senator Pflug was excused.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the Granite Falls ShopGirls who were seated in the gallery.

MOTION

At 12:17 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 2:16 p.m. by President Owen.

MOTION

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

SECOND READING

HOUSE BILL NO. 1407, by Representatives Ryu, Hope, Dunshee, Angel and Kagi

Allowing the negotiated sale and conveyance of all or part of a water system by a municipal corporation to first class and code cities.

The measure was read the second time.

MOTION

Senator Pridemore moved that the following committee amendment by the Committee on Government Operations, Tribal Relations & Elections be adopted:

Beginning on page 3, line 36, strike all of section 2

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Government Operations, Tribal Relations & Elections to House Bill No. 1407.

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

MOTION

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

On page 1, line 3 of the title, after "54.16.180" strike "and 35.92.070"

MOTION

On motion of Senator Pridemore, the rules were suspended, House Bill No. 1407 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 Pridemore spoke in favor of passage of the bill.

MOTION

On motion of Senator Ericksen, Senator Parlette was excused.

MOTION

On motion of Senator White, Senator Kline was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 1407 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1407 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 2; Absent, 2; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Hewitt and Holmquist Newbry

Absent: Senators Hargrove and Prentice

Excused: Senator Kline

HOUSE BILL NO. 1407 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. 1391, by Representatives Warnick, Haler, Fagan, Schmick, Chandler, McCune, Armstrong, Condotta, Johnson, Hinkle and Parker

Regarding the use of water delivered from the federal Columbia basin project.

The measure was read the second time.

MOTION

On motion of Senator Rockefeller, the rules were suspended, House Bill No. 1391 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.

MOTION

On motion of Senator White, Senator Prentice was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 1391.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1391 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Hargrove

Excused: Senator Prentice

HOUSE BILL NO. 1391, 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. 1263, by Representatives Crouse, Bailey and Seaquist

Addressing the definition of employer for certain public corrections entities formed by counties or cities under RCW 39.34.030.

The measure was read the second time.

MOTION

On motion of Senator Murray, the rules were suspended, House Bill No. 1263 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Murray and Schoesler 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. 1263.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1263 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Hargrove

Excused: Senator Prentice

HOUSE BILL NO. 1263, 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 White, Senator Hargrove was excused.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1422, by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Stanford, Orcutt, Chandler, Warnick, Van De Wege, Green, Smith, Jacks, Blake, Sullivan, McCoy, Kretz, Tharinger, Ryu, Short, Sells, Lytton, Liias, Frockt, Moscoso, Billig, Probst, Rolfes, Dunshee, Maxwell, Upthegrove and Kenney)

Authorizing a forest biomass to aviation fuel demonstration project.

The measure was read the second time.

MOTION

Senator Ranker moved that the following committee striking amendment by the Committee on Natural Resources & Marine Waters be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that the work that is already underway in exploring the potential of linking Washington's forest products and aeronautics industries in producing a sustainable aviation biofuel with feedstock from the state's public and private forest lands is important to this state's economy and its sustainable energy policies. The sustainable aviation fuel Northwest initiative has set the stage by beginning the process and initiating stakeholder involvement in assessing the options for developing the biofuel industry in the Northwest.

The legislature further finds that the work that is being done by the department of natural resources and our state research universities in exploring opportunities to develop aviation biofuel in Washington will provide the scientific and technological analyses needed to determine a pathway for the sustainable use of forest biomass to produce biofuels.

NEW SECTION. **Sec. 2.** (1) The departments of natural resources and commerce are authorized to cooperate and consult with the University of Washington and Washington State University in their development of forest biomass to aviation fuel by:

(a) Identifying opportunities for state lands to generate trust income for beneficiaries;

(b) Identifying how to manage trust lands with potential for contributing to biomass to aviation fuel projects in a manner consistent with any findings by the University of Washington concerning operationally and ecologically sustainable feedstock supply;

(c) Identifying the most cost-effective, efficient, and ecologically sound techniques to deliver forest biomass from the forest to the production site;

(d) Addressing and planning to ensure sustainability of forest biomass supply;

(e) Exploring linkages with other biofuel efforts;

(f) Identifying any barriers to developing aviation biofuel in Washington;

(g) Entering into partnerships with research universities and the private sector to conduct a pilot project;

(h) Collaborating with the federal government, other states, and Canadian provinces; and

(i) Identifying and applying for funding sources.

(2) The department of natural resources must provide a report to the governor and the appropriate committees of the legislature:

(a) By December 1, 2011, regarding all of its activities pertaining to forest biomass to aviation fuel, including expenditures and revenue sources;

(b) By December 1, 2011, and December 1, 2012, with a summary of research activities, scientific reports, and pilot projects pertaining to forest biomass to aviation fuel by state research institutions, including the status of ongoing activities and summaries of the findings with their implications for management of forest trust lands;

(c) By December 1, 2011, and December 1, 2012, on the progress of the forest practices board's forest biomass policy work group's consideration of the science, policy, available technologies, and best management practices related to forest biomass harvest, including final recommendations to the forest practices board.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28B.10 RCW to read as follows:

If a state university or foundation derives income from the commercialization of patents, copyrights, proprietary processes, or licenses developed by the forest biomass to aviation fuel

demonstration project in section 2 of this act, a percentage of that income, proportionate to the percent of state resources used to develop and commercialize the patent, copyright, proprietary process, or license must be deposited in the state general fund."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Natural Resources & Marine Waters to Substitute House Bill No. 1422.

The motion by Senator Ranker 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 4 of the title, after "production;" strike the remainder of the title and insert "adding a new section to chapter 28B.10 RCW; and creating new sections."

MOTION

On motion of Senator Ranker, the rules were suspended, Substitute House Bill No. 1422 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Ranker and Morton 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. 1422 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1422 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Hargrove and Prentice

SUBSTITUTE HOUSE BILL NO. 1422 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1709, by Representatives Kirby and Bailey

Making certain lines of group disability insurance more available.

The measure was read the second time.

MOTION

On motion of Senator Hobbs, the rules were suspended, House Bill No. 1709 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs 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. 1709.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1709 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Hargrove and Prentice

HOUSE BILL NO. 1709, 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:
HOUSE BILL NO. 1016,
ENGROSSED HOUSE BILL NO. 1028,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1055,
HOUSE BILL NO. 1069,
HOUSE BILL NO. 1129,
HOUSE BILL NO. 1150,
SUBSTITUTE HOUSE BILL NO. 1247,
SUBSTITUTE HOUSE BILL NO. 1294,
HOUSE BILL NO. 1298,
HOUSE BILL NO. 1345,
HOUSE BILL NO. 1347,
ENGROSSED HOUSE BILL NO. 1357,
HOUSE BILL NO. 1412,
HOUSE BILL NO. 1424,
HOUSE BILL NO. 1488,
SUBSTITUTE HOUSE BILL NO. 1571,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1572,
HOUSE BILL NO. 1618,
HOUSE BILL NO. 1649,
HOUSE BILL NO. 1694.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1803, by House Committee on Capital Budget (originally sponsored by Representatives Chandler, Van De Wege, Blake, Kretz and Warnick)

Modifying the Columbia river basin management program.

The measure was read the second time.

MOTION

On motion of Senator Rockefeller, the rules were suspended, Second Substitute House Bill No. 1803 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 Second Substitute House Bill No. 1803.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1803 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Hargrove and Prentice

SECOND SUBSTITUTE HOUSE BILL NO. 1803, 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:

ENGROSSED SENATE BILL NO. 5058,
SUBSTITUTE SENATE BILL NO. 5071,
SUBSTITUTE SENATE BILL NO. 5115,
SENATE BILL NO. 5116,
SENATE BILL NO. 5149,
SENATE BILL NO. 5170,
SENATE BILL NO. 5213,
SENATE BILL NO. 5224,
ENGROSSED SENATE BILL NO. 5242,
SENATE BILL NO. 5295,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5307,
SENATE BILL NO. 5375,
SENATE BILL NO. 5388,
SENATE BILL NO. 5492,
SUBSTITUTE SENATE BILL NO. 5495,
SENATE BILL NO. 5501,
SUBSTITUTE SENATE BILL NO. 5538,
SUBSTITUTE SENATE BILL NO. 5574,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5594.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1206, by House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Dahlquist, Hurst, Pearson, Harris, Parker, Lytton, Rivers, Johnson, Taylor, Wilcox, Ross, Kelley, Ladenburg, Armstrong, Dammeier, Frockt and Schmick)

Making harassment against criminal justice participants a crime under certain circumstances. Revised for 2nd Substitute: Concerning harassment against criminal justice participants.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, Engrossed Second Substitute House Bill No. 1206 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 Second Substitute House Bill No. 1206.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1206 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Prentice

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1206, 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. 1473, by Representatives Parker, Hurst, Ormsby and Billig

Concerning the use of existing fees collected for the cost of traffic schools.

The measure was read the second time.

MOTION

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

On page 2, line 7, after "46.63.110." insert "For the purposes of this section, the penalty includes the base penalty and all assessments and other costs that are required by statute or rule to be added to the base penalty."

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

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Transportation to House Bill No. 1473.

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

MOTION

On motion of Senator Haugen, the rules were suspended, House Bill No. 1473 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 Haugen 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. 1473 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1473 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 Baxter, Becker, Brown, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and White

Voting nay: Senators Baumgartner, Benton, Carrell, Holmquist Newbry, Honeyford, Stevens and Zarelli

Excused: Senator Prentice

HOUSE BILL NO. 1473 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. 1071, by House Committee on Transportation (originally sponsored by Representatives Moeller, Fitzgibbon and Frockt)

Creating a complete streets grant program.

The measure was read the second time.

MOTION

Senator Haugen 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.** Urban main streets should be designed to provide safe access to all users, including bicyclists, pedestrians, motorists, and public transportation users. Context sensitive design and engineering principles allow for flexible solutions depending on a community's needs, and result in many positive outcomes for cities and towns, including improving the health and safety of a community. It is the intent of the legislature to encourage street designs that safely meet the needs of all users and also protect and preserve a community's environment and character.

NEW SECTION. **Sec. 2.** A new section is added to chapter 47.04 RCW to read as follows:

(1) The department shall establish a complete streets grant program within the department's highways and local programs division, or its successor. During program development, the department shall include, at a minimum, the department of archaeology and historic preservation, local governments, and other organizations or groups that are interested in the complete streets grant program. The purpose of the grant program is to encourage local governments to adopt urban arterial retrofit street ordinances designed to provide safe access to all users, including bicyclists, pedestrians, motorists, and public transportation users, with the goals of:

(a) Promoting healthy communities by encouraging walking, bicycling, and using public transportation;

(b) Improving safety by designing major arterials to include features such as wider sidewalks, dedicated bicycle facilities, medians, and pedestrian streetscape features, including trees where appropriate.

(c) Protecting the environment and reducing congestion by providing safe alternatives to single-occupancy driving; and

(d) Preserving community character by involving local citizens and stakeholders to participate in planning and design decisions.

(2) For purposes of this section:

(a) "Eligible project" means (i) a local government street retrofit project that includes the addition of, or significant repair to, facilities that provide street access with all users in mind, including pedestrians, bicyclists, and public transportation users; or (ii) a retrofit project on city streets that are part of a state highway that include the addition of, or significant repair to, facilities that provide street access with all users in mind, including pedestrians, bicyclists, and public transportation users.

(b) "Local government" means incorporated cities and towns that have adopted a jurisdiction-wide complete streets ordinance that plans for the needs of all users and is consistent with sound engineering principles.

(c) "Sound engineering principles" means peer-reviewed, context sensitive solutions guides, reports, and publications, consistent with the purposes of this section.

(3) In carrying out the purposes of this section, the department may award funding, subject to the availability of amounts appropriated for this specific purpose, only to eligible projects that are designed consistent with sound engineering principles.

(4) The department must report annually to the transportation committees of the legislature on the status of any grant projects funded by the program created under this section.

NEW SECTION. **Sec. 3.** A new section is added to chapter 47.04 RCW to read as follows:

(1) The complete streets grant program account is created in the state treasury. Moneys in the account may be spent only after appropriation. Only the department may authorize expenditures from the account. The department may use complete streets grant program funds for city streets, and city streets that are part of a state highway. Expenditures from the account may be used solely for the grants provided under section 2 of this act.

(2) The department may solicit and receive gifts, grants, or endowments from private and other sources that are made, in trust or otherwise, for the use and benefit of the purposes of the complete streets grant program as provided in section 2 of this act.

NEW SECTION. **Sec. 4.** A new section is added to chapter 47.04 RCW to read as follows:

When constructing, reconstructing, or making major improvements to streets described in RCW 47.24.010, the department must, for street projects initially planned or scoped after July 1, 2011:

(1) Consult with local jurisdictions in the design and planning phases. Consultation with local jurisdictions must include public outreach and meetings with interested stakeholders in the predesign phase for the purpose of clarifying community goals and priorities through community design exercises prior to developing any designs or visualizations; and

(2) Consider the needs of all users by applying context sensitive design solutions consistent with peer-reviewed, context sensitive solutions guides, reports, and publications, consistent with the purposes of this section."

Senator Haugen 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 Engrossed Substitute House Bill No. 1071.

The motion by Senator Haugen 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, beginning on line 2 of the title, strike the remainder of the title and insert "adding new sections to chapter 47.04 RCW; and creating a new section."

MOTION

On motion of Senator Haugen, the rules were suspended, Engrossed Substitute House Bill No. 1071 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 Haugen and White spoke in favor of passage of the bill.

Senator King spoke against passage of the bill.

Senators Ericksen and Baxter spoke on final passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1071 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1071 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 29; Nays, 19; Absent, 0; Excused, 1.

Voting yea: Senators Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Tom and White

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Delvin, Ericksen, Hewitt, Holmquist Newbry, Honeyford, King, Morton, Parlette, Pflug, Roach, Schoesler, Stevens, Swecker and Zarelli

Excused: Senator Prentice

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1071 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. 1521, by Representatives Maxwell, Haigh, Sullivan, Pettigrew, Santos, Kenney, Liias, Frockt, Jacks, Clibborn, Probst, Sells, Lytton, Goodman, Orwall, Van De Wege, Green, Hunt, McCoy, Ladenburg, Billig, Seaquist, Fitzgibbon, Carlyle and Jinkins

Recognizing Washington innovation schools.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that Washington has a long history of providing legal, financial, and political support for a wide range of innovative programs and initiatives and that these can and do operate successfully in public schools through the currently authorized governance structure of locally elected boards of directors of school districts.

(2) Examples of innovation schools can be found all across the state including, but not limited to:

(a) The Vancouver school of arts and academics that offers students beginning in sixth grade the opportunity to immerse themselves in the full range of the arts, including dance, music, theater, literary arts, visual arts, and moving image arts, as well as all levels of core academic courses;

(b) Thornton Creek elementary school in Seattle, an award-winning parent-initiated learning option based on the expeditionary learning outward bound model;

(c) The technology access foundation academy, a unique public-private partnership with the Federal Way school district that offers a rigorous and relevant curriculum through project-based learning, full integration of technology, and a small learning community intended to provide middle and high school students the opportunity for success in school and college;

(d) Talbot Hill elementary school in Renton, where students participate in a microsociety program that includes selecting a government, conducting business and encouraging entrepreneurialism, and providing community services such as banking, newspaper, post office, and courts;

(e) The Tacoma school of the arts, where sophomores through seniors form a cohesive, full-time learning community to study the full range of humanities, mathematics, science, and language as well as build a broad foundation in all forms of the arts, culminating with an in-depth senior arts project that showcases each student's talent and interest;

(f) The SPRINT program at Shaw middle school in Spokane, an alternative learning community for students in seventh and eighth grade proposed and created by a group of parents who wish to be very actively involved in their students' education;

(g) Puesta del sol elementary school in Bellevue, offering a diverse multicultural program and Spanish language immersion beginning in kindergarten;

(h) The Washington national guard youth challenge program operated in collaboration with the Bremerton school district that offers high-risk youth a rigorous and structured residential program that builds students' academic, social, and emotional skills, and physical fitness while providing up to one year of high school credits toward graduation;

(i) The Lincoln center program at Lincoln high school in Tacoma, an extended day program that has virtually eliminated the academic achievement gap and significantly boosted attendance and test scores for racially diverse, low-income, and highly mobile students;

(j) Delta high school, a science, technology, engineering, and math-focused school option for students in the Tri-Cities operating in cooperation with three school districts, the regional skill center, local colleges and universities, and the business community; and

(k) Aviation high school in the Highline school district, offering a project-based curriculum and learning environment centered on an aviation and aeronautics theme with strong business and community support.

(3) Therefore, the legislature intends to encourage additional innovation schools by disseminating information about current

models and recognizing the effort and commitment that goes into their creation and operation.

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

(1) The legislature finds that innovation schools accomplish the following objectives:

(a) Provide students and parents with a diverse array of educational options;

(b) Promote active and meaningful parent and community involvement and partnership with local schools;

(c) Serve as laboratories for educational experimentation and innovation;

(d) Respond and adapt to different styles, approaches, and objectives of learning;

(e) Hold students and educators to high expectations and standards; and

(f) Encourage and facilitate bold, creative, and innovative educational ideas.

(2) The office of the superintendent of public instruction shall develop basic criteria and a streamlined review process for identifying Washington innovation schools. Any public school, including those with institution of higher education partners, may be nominated by a community, organization, school district, institution of higher education, or through self-nomination to be designated as a Washington innovation school. If the office of the superintendent of public instruction finds that the school meets the criteria, the school shall receive a designation as a Washington innovation school. Within available funds, the office shall develop a logo, certificate, and other recognition strategies to encourage and highlight the accomplishments of innovation schools.

(3) The office of the superintendent of public instruction shall:

(a) Create a page on the office web site to highlight examples of Washington innovation schools, including those with institution of higher education partners, that includes links to research literature and national best practices, as well as summary information and links to the web sites of Washington innovation schools. The office is encouraged to offer an educational administrator intern the opportunity to create the web page as a project toward completion of his or her administrator certificate; and

(b) Publicize the Washington innovation school designation and encourage schools, communities, institutions of higher education, and school districts to access the web site and create additional models of innovation."

Senators McAuliffe and Litzow 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 Early Learning & K-12 Education to House Bill No. 1521.

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 "schools;" strike the remainder of the title and insert "adding a new section to chapter 28A.300 RCW; and creating a new section."

MOTION

On motion of Senator McAuliffe, the rules were suspended, House Bill No. 1521 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.

The President declared the question before the Senate to be the final passage of House Bill No. 1521 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1521 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Ericksen

Excused: Senator Prentice

HOUSE BILL NO. 1521 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. 1495, by House Committee on Judiciary (originally sponsored by Representatives Eddy, Rodne, Kirby, Armstrong, Hunter, Hinkle, Chandler, Pettigrew, Carlyle, Springer, Maxwell, Anderson, Clibborn, Kelley and Kenney)

Regarding the unfair competition that occurs when stolen or misappropriated information technology is used to manufacture products sold or offered for sale in this state.

The measure was read the second time.

MOTION

Senator Kohl-Welles moved that the following committee striking amendment by the Committee on Labor, Commerce & Consumer Protection be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Article or product" means any tangible article or product, but excludes: (a) Any services sold, offered for sale, or made available in this state, including free services and online services; (b) any product subject to regulation by the United States food and drug administration and that is primarily used for medical or medicinal purposes; (c) food and beverages; and (d) restaurant services.

(2) "Copyrightable end product" means a work within the subject matter of copyright as specified in section 102 of Title 17, United States Code, and which for the purposes of this chapter includes mask works protection as specified in section 902 of Title 17, United States Code.

(3) "Essential component" means a component of an article or product provided or to be provided to a third party pursuant to a contract, including a purchase order, without which the article or product will not perform as intended and for which there is no substitute component available that offers a comparable range and quality of functionalities and is available in comparable quantities and at a comparable price.

(4) "Manufacture" means to directly manufacture, produce, or assemble an article or product subject to section 2 of this act, in whole or substantial part, but does not include contracting with or otherwise engaging another person, or that person engaging another person, to develop, manufacture, produce, or assemble an article or product subject to section 2 of this act.

(5) "Material competitive injury" means at least a three percent retail price difference between the article or product made in violation of section 2 of this act designed to harm competition and a directly competing article or product that was manufactured without the use of stolen or misappropriated information technology, with such a price difference occurring over a four-month period of time.

(6) "Retail price" means the retail price of stolen or misappropriated information technology charged at the time of, and in the jurisdiction where, the alleged theft or misappropriation occurred, multiplied by the number of stolen or misappropriated items used in the business operations of the person alleged to have violated section 2 of this act.

(7)(a) "Stolen or misappropriated information technology" means hardware or software that the person referred to in section 2 of this act acquired, appropriated, or used without the authorization of the owner of the information technology or the owner's authorized licensee in violation of applicable law, but does not include situations in which the hardware or software alleged to have been stolen or misappropriated was not available for retail purchase on a stand-alone basis at or before the time it was acquired, appropriated, or used by such a person.

(b) Information technology is considered to be used in a person's business operations if the person uses the technology in the manufacture, distribution, marketing, or sales of the articles or products subject to section 2 of this act.

NEW SECTION. **Sec. 2.** Any person who manufactures an article or product while using stolen or misappropriated information technology in its business operations after notice and opportunity to cure as provided in section 5 of this act and, with respect to remedies sought under section 6(6) or 7 of this act, causes a material competitive injury as a result of such use of stolen or misappropriated information technology, is deemed to engage in an unfair act where such an article or product is sold or offered for sale in this state, either separately or as a component of another article or product, and in competition with an article or product sold or offered for sale in this state that was manufactured without violating this section. A person who engages in such an unfair act, and any articles or products manufactured by the person in violation of this section, is subject to the liabilities and remedial provisions of this chapter in an action by the attorney general or any person described in section 6(5) of this act, except as provided in sections 3 through 9 of this act.

NEW SECTION. **Sec. 3.** No action may be brought under this chapter, and no liability results, where:

(1) The end article or end product sold or offered for sale in this state and alleged to violate section 2 of this act is:

(a) A copyrightable end product;

(b) Merchandise manufactured by or on behalf of, or pursuant to a license from, a copyright owner and which displays or embodies a name, character, artwork, or other indicia of or from a work that falls within (a) of this subsection, or merchandise manufactured by or on behalf of, or pursuant to a license from, a copyright or trademark owner and that displays or embodies a name, character, artwork, or other indicia of or from a theme park, theme park attraction, or other facility associated with a theme park; or

(c) Packaging, carrier media, or promotional or advertising materials for any end article, end product, or merchandise that falls within (a) or (b) of this subsection;

(2) The allegation that the information technology is stolen or misappropriated is based on a claim that the information technology or its use infringes a patent or misappropriates a trade secret under applicable law or that could be brought under any provision of Title 35 of the United States Code;

(3) The allegation that the information technology is stolen or misappropriated is based on a claim that the defendant's use of the information technology violates the terms of a license that allows users to modify and redistribute any source code associated with the technology free of charge; or

(4) The allegation is based on a claim that the person violated section 2 of this act by aiding, abetting, facilitating, or assisting someone else to acquire, appropriate, use, sell, or offer to sell, or by providing someone else with access to, information technology without authorization of the owner of the information technology or the owner's authorized licensee in violation of applicable law.

NEW SECTION. **Sec. 4.** No injunction may issue against a person other than the person adjudicated to have violated section 2 of this act, and no attachment order may issue against articles or products other than articles or products in which the person alleged to violate section 2 of this act holds title. A person other than the person alleged to violate section 2 of this act includes any person other than the actual manufacturer who contracts with or otherwise engages another person to develop, manufacture, produce, market, distribute, advertise, or assemble an article or product alleged to violate section 2 of this act.

NEW SECTION. **Sec. 5.** (1) No action may be brought under section 2 of this act unless the person subject to section 2 of this act received written notice of the alleged use of the stolen or misappropriated information technology from the owner or exclusive licensee of the information technology or the owner's agent and the person: (a) Failed to establish that its use of the information technology in question did not violate section 2 of this act; or (b) failed, within ninety days after receiving such a notice, to cease use of the owner's stolen or misappropriated information technology. However, if the person commences and thereafter proceeds diligently to replace the information technology with information technology whose use would not violate section 2 of this act, such a period must be extended for an additional period of ninety days, not to exceed one hundred eighty days total. The information technology owner or the owner's agent may extend any period described in this section.

(2) To satisfy the requirements of this section, written notice must, under penalty of perjury: (a) Identify the stolen or misappropriated information technology; (b) identify the lawful owner or exclusive licensee of the information technology; (c) identify the applicable law the person is alleged to be violating and state that the notifier has a reasonable belief that the person has acquired, appropriated, or used the information technology in question without authorization of the owner of the information technology or the owner's authorized licensee in violation of such applicable law; (d) to the extent known by the notifier, state the manner in which the information technology is being used by the defendant; (e) state the articles or products to which the information technology relates; and (f) specify the basis and the particular evidence upon which the notifier bases such an allegation.

(3) The written notification must state, under penalty of perjury, that, after a reasonable and good-faith investigation, the information in the notice is accurate based on the notifier's reasonable knowledge, information, and belief.

NEW SECTION. **Sec. 6.** (1) No earlier than ninety days after the provision of notice in accordance with section 5 of this act, the attorney general, or any person described in subsection (5) of this section, may bring an action against any person that is subject to section 2 of this act:

(a) To enjoin violation of section 2 of this act, including by enjoining the person from selling or offering to sell in this state articles or products that are subject to section 2 of this act, except as provided in subsection (6) of this section. However, such an injunction does not encompass articles or products to be provided to a third party that establishes that such a third party has satisfied one or more of the affirmative defenses set forth in section 8(1) of this act with respect to the manufacturer alleged to have violated section 2 of this act;

(b) Only after a determination by the court that the person has violated section 2 of this act, to recover the greater of:

(i) Actual direct damages, which may be imposed only against the person who violated section 2 of this act; or

(ii) Statutory damages of no more than the retail price of the stolen or misappropriated information technology, which may be imposed only against the person who violated section 2 of this act; or

(c) In the event the person alleged to have violated section 2 of this act has been subject to a final judgment or has entered into a final settlement, or any products manufactured by such a person and alleged to violate section 2 of this act have been the subject of an injunction or attachment order, in any federal or state court in this state or any other state, arising out of the same theft or misappropriation of information technology, the court shall dismiss the action with prejudice. If such a person is a defendant in an ongoing action, or any products manufactured by such a person and alleged to violate section 2 of this act are the subject of an ongoing injunction or attachment order, in any federal or state court in this state or any other state, arising out of the same theft or misappropriation of information technology, the court shall stay the action against such a person pending resolution of the other action. In the event the other action results in a final judgment or final settlement, the court shall dismiss the action with prejudice against the person. Dismissals under this subsection are res judicata to actions filed against the person alleged to have violated section 2 of this act arising out of the same theft or misappropriation of information technology.

(2) After determination by the court that a person has violated section 2 of this act and entry of a judgment against the person for violating section 2 of this act, the attorney general, or a person described in subsection (5) of this section, may add to the action a claim for actual direct damages against a third party who sells or offers to sell in this state products made by that person in violation of section 2 of this act, subject to the provisions of section 8 of this act. However, damages may be imposed against a third party only if:

(a) The third party's agent for service of process was properly served with a copy of a written notice sent to the person alleged to have violated section 2 of this act that satisfies the requirements of section 5 of this act at least ninety days prior to the entry of the judgment;

(b) The person who violated section 2 of this act did not make an appearance or does not have sufficient attachable assets to satisfy a judgment against the person;

(c) Such a person either manufactured the final product or produced a component equal to thirty percent or more of the value of the final product;

(d) Such a person has a direct contractual relationship with the third party respecting the manufacture of the final product or component; and

(e) The third party has not been subject to a final judgment or entered into a final settlement in any federal or state court in this state or any other state arising out of the same theft or misappropriation of information technology. However, in the event the third party is a party to an ongoing suit for damages, or has entered an appearance as an interested third party in proceedings in rem, in any federal or state court in this state or any other state arising out of the same theft or misappropriation of information technology, the court shall stay the action against the third party pending resolution of the other action. In the event the other action results in a final judgment, the court shall dismiss the action with prejudice against the third party and dismiss any in rem action as to any articles or products manufactured for such a third party or that have been or are to be supplied to such a third party. Dismissals under this subsection are res judicata to actions filed against the person alleged to have violated section 2 of this act arising out of the same theft or misappropriation of information technology.

(3) An award of damages against such a third party pursuant to subsection (2) of this section must be the lesser of the retail price of the stolen or misappropriated information technology at issue or two hundred fifty thousand dollars, less any amounts recovered from the person adjudicated to have violated section 2 of this act, and subsection (4)(a) of this section does not apply to such an award or recovery against the third party.

(4) In an action under this chapter, a court may:

(a) Against the person adjudicated to have violated section 2 of this act, increase the damages up to three times the damages authorized by subsection (1)(b) of this section where the court finds that the person's use of the stolen or misappropriated information technology was willful;

(b) With respect to an award under subsection (1) of this section only, award costs and reasonable attorneys' fees to: (i) A prevailing plaintiff in actions brought by an injured person under section 2 of this act; or (ii) a prevailing defendant in actions brought by an allegedly injured person; and

(c) With respect to an action under subsection (2) of this section brought by a private plaintiff only, award costs and reasonable attorneys' fees to a third party for all litigation expenses (including, without limitation, discovery expenses) incurred by that party if it prevails on the requirement set forth in subsection (2)(c) of this section or who qualifies for an affirmative defense under section 8 of this act. However, in a case in which the third party received a copy of the notification described in subsection (2)(a) of this section at least ninety days before the filing of the action under subsection (2) of this section, with respect to a third party's reliance on the affirmative defenses set forth in section 8(1) (c) and (d) of this act, the court may award costs and reasonable attorneys' fees only if all of the conduct on which the affirmative defense is based was undertaken by the third party, and the third party notified the plaintiff of the conduct, prior to the end of the ninety- day period.

(5) A person is deemed to have been injured by the sale or offer for sale of a directly competing article or product subject to section 2 of this act if the person establishes by a preponderance of the evidence that:

(a) The person manufactures articles or products that are sold or offered for sale in this state in direct competition with articles or products that are subject to section 2 of this act;

(b) The person's articles or products were not manufactured using stolen or misappropriated information technology of the owner of the information technology;

(c) The person suffered economic harm, which may be shown by evidence that the retail price of the stolen or misappropriated information technology was twenty thousand dollars or more; and

(d) If the person is proceeding in rem or seeks injunctive relief, that the person suffered material competitive injury as a result of the violation of section 2 of this act.

(6)(a) If the court determines that a person found to have violated section 2 of this act lacks sufficient attachable assets in this state to satisfy a judgment rendered against it, the court may enjoin the sale or offering for sale in this state of any articles or products subject to section 2 of this act, except as provided in section 4 of this act.

(b) To the extent that an article or product subject to section 2 of this act is an essential component of a third party's article or product, the court shall deny injunctive relief as to such an essential component, provided that the third party has undertaken good faith efforts within the third party's rights under its applicable contract with the manufacturer to direct the manufacturer of the essential component to cease the theft or misappropriation of information technology in violation of section 2 of this act, which may be satisfied, without limitation, by the third party issuing a written directive to the manufacturer demanding that it cease the theft or misappropriation and demanding that the manufacturer provide the third party with copies of invoices, purchase orders, licenses, or other verification of lawful use of the information technology at issue.

(7) The court shall determine whether a cure period longer than the period reflected in section 5 of this act would be reasonable given the nature of the use of the information technology that is the subject of the action and the time reasonably necessary either to bring such use into compliance with applicable law or to replace the information technology with information technology that would not violate section 2 of this act. If the court deems that a longer cure period would be reasonable, then the action shall be stayed until the end of that longer cure period. If by the end of that longer cure period, the defendant has established that its use of the information technology in question did not violate section 2 of this act, or the defendant ceased use of the stolen or misappropriated information technology, then the action must be dismissed.

NEW SECTION. **Sec. 7.** (1) In a case in which the court is unable to obtain personal jurisdiction over a person subject to section 2 of this act, the court may proceed in rem against any articles or products subject to section 2 of this act sold or offered for sale in this state in which the person alleged to have violated section 2 of this act holds title. Except as provided in section 4 of this act and subsection (2) through (4) of this section, all such articles or products are subject to attachment at or after the time of filing a complaint, regardless of the availability or amount of any monetary judgment.

(2) At least ninety days prior to the enforcement of an attachment order against articles or products pursuant to subsection (1) of this section, the court shall notify any person in possession of the articles or products of the pending attachment order. Prior to the expiration of the ninety day period, any person for whom the articles or products were manufactured, or to whom the articles or products have been or are to be supplied, pursuant to an existing contract or purchase order, may:

(a) Establish that the person has satisfied one or more of the affirmative defenses set forth in section 8(1) of this act with respect to the manufacturer alleged to have violated section 2 of this act, in which case the attachment order must be dissolved only with respect to those articles or products that were manufactured for such a person, or have been or are to be supplied to such a person, pursuant to an existing contract or purchase order; or

(b) Post a bond with the court equal to the retail price of the allegedly stolen or misappropriated information technology or twenty-five thousand dollars, whichever is less, in which case the court shall stay enforcement of the attachment order against the articles or products and shall proceed on the basis of its jurisdiction over the bond. The person posting the bond shall recover the full amount of such bond, plus interest, after the issuance of a final judgment.

(3) In the event the person posting the bond pursuant to subsection (2)(b) of this section is entitled to claim an affirmative defense in section 8 of this act, and that person establishes with the court that the person is entitled to any affirmative defense, the court shall award costs and reasonable attorneys' fees to the person posting the bond and against the plaintiff in the event the plaintiff proceeds with an action pursuant to section 6(2) of this act against the person posting the bond.

(4) In the event that the court does not provide notification as described in subsection (2) of this section, the court, upon motion of any third party, shall stay the enforcement of the attachment order for ninety days as to articles or products manufactured for the third party, or that have been or are to be supplied to the third party, pursuant to an existing contract or purchase order, during which ninety day period the third party may avail itself of the options set forth in subsection (2)(a) and (b) of this section.

NEW SECTION. **Sec. 8.** (1) A court may not award damages against any third party pursuant to section 6(2) of this act where that party, after having been afforded reasonable notice of at least ninety days by proper service upon such a party's agent for service of process and opportunity to plead any of the affirmative defenses set forth in this subsection, establishes by a preponderance of the evidence any of the following:

(a) Such a person is the end consumer or end user of an article or product subject to section 2 of this act, or acquired the article or product after its sale to an end consumer or end user;

(b) Such a person is a business with annual revenues not in excess of fifty million dollars;

(c) The person acquired the articles or products:

(i) And had either: A code of conduct or other written document governing the person's commercial relationships with the manufacturer adjudicated to have violated section 2 of this act and which includes commitments, such as general commitments to comply with applicable laws, that prohibit use of the stolen or misappropriated information technology by such manufacturer; or written assurances from the manufacturer of the articles or products that the articles or products, to the manufacturer's reasonable knowledge, were manufactured without the use of stolen or misappropriated information technology in the manufacturer's business operations. However, with respect to this subsection (c)(i), within one hundred eighty days of receiving written notice of the judgment against the manufacturer for a violation of section 2 of this act and a copy of a written notice that satisfies the requirements of section 5 of this act, the person must undertake commercially reasonable efforts to do any of the following:

(A) Exchange written correspondence confirming that such a manufacturer is not using the stolen or misappropriated information technology in violation of section 2 of this act, which may be satisfied, without limitation, by obtaining written assurances from the manufacturer accompanied by copies of invoices, purchase orders, licenses, or other verification of lawful use of the information technology at issue;

(B) Direct the manufacturer to cease the theft or misappropriation, which may be satisfied, without limitation, by the third party issuing a written directive to the manufacturer demanding that it cease such theft or misappropriation and demanding that the manufacturer provide the third party with copies of invoices, purchase orders, licenses, or other verification of lawful use of the information technology at issue; and for purposes of clarification, the third party need take no additional action to fully avail itself of this affirmative defense; or

(C) In a case in which the manufacturer has failed to cease such a theft or misappropriation within the one hundred eighty-day

period, and the third party has not fulfilled either option (c)(i)(A) of this subsection or option (c)(i)(B) of this subsection, cease the future acquisition of the articles or products from the manufacturer during the period that the manufacturer continues to engage in the theft or misappropriation subject to section 2 of this act where doing so would not constitute a breach of an agreement between the person and the manufacturer for the manufacture of the articles or products in question that was entered into on or before one hundred eighty days after the effective date of this section; or

(ii) Pursuant to an agreement between the person and a manufacturer for the manufacture of the articles or products in question that was entered into before one hundred eighty days after the effective date of this section. However, within one hundred eighty days of receiving written notice of the judgment against the manufacturer for a violation of section 2 of this act and a copy of a written notice that satisfies the requirements of section 5 of this act, the person must undertake commercially reasonable efforts to do any of the following:

(A) Obtain from the manufacturer written assurances that such a manufacturer is not using the stolen or misappropriated information technology in violation of section 2 of this act, which may be satisfied, without limitation, by obtaining written assurances from the manufacturer accompanied by copies of invoices, purchase orders, licenses, or other verification of lawful use of the information technology at issue;

(B) Direct the manufacturer to cease the theft or misappropriation, which may be satisfied, without limitation, by the third party issuing a written directive to the manufacturer demanding that it cease such theft or misappropriation and demanding that the manufacturer provide the third party with copies of invoices, purchase orders, licenses, or other verification of lawful use of the information technology at issue; and for purposes of clarification, the third party need take no additional action to fully avail itself of this affirmative defense; or

(C) In a case in which the manufacturer has failed to cease the theft or misappropriation within the one hundred eighty-day period, and the third party has not fulfilled either option (c)(ii)(A) of this subsection or option (c)(ii)(B) of this subsection, cease the future acquisition of the articles or products from the manufacturer during the period that the manufacturer continues to engage in the theft or misappropriation subject to section 2 of this act where doing so would not constitute a breach of such agreement;

(d) The person has made commercially reasonable efforts to implement practices and procedures to require its direct manufacturers, in manufacturing articles or products for such person, not to use stolen or misappropriated information technology in violation of section 2 of this act. A person may satisfy this subsection (1)(d) by:

(i) Adopting and undertaking commercially reasonable efforts to implement a code of conduct or similar written requirements, which are applicable to the person's direct manufacturers, that prohibit the use of stolen or misappropriated information technology by such a manufacturer, subject to a right of audit, and the person either: (A) Has a practice of auditing its direct manufacturers on a periodic basis in accordance with generally accepted industry standards; or (B) requires in its agreements with its direct manufacturers that they submit to audits by a third party, which may include a third-party association of businesses representing the owner of the stolen or misappropriated intellectual property, and further provides that a failure to remedy any deficiencies found in such an audit that constitute a violation of the applicable law of the jurisdiction where the deficiency occurred constitutes a breach of the contract, subject to cure within a reasonable period of time; or

(ii) Adopting and undertaking commercially reasonable efforts to implement a code of conduct or similar written requirements, which are applicable to the person's direct manufacturers, that prohibit use of stolen or misappropriated information technology by such a manufacturer, and the person undertakes practices and procedures to address compliance with the prohibition against the use of the stolen or misappropriated information technology in accordance with the applicable code of conduct or written requirements; or

(e) The person does not have a contractual relationship with the person alleged to have violated section 2 of this act respecting the manufacture of the articles or products alleged to have been manufactured in violation of section 2 of this act.

(2) A third party must have the opportunity to be heard regarding whether an article or product is an essential component provided or to be provided to a third party, and must have the right to file a motion to dismiss any action brought against it under section 6(2) of this act.

(3) The court may not enforce any award for damages against such a third party until after the court has ruled on that party's claim of eligibility for any of the affirmative defenses set out in this section, and prior to such a ruling may allow discovery, in an action under section 6(2) of this act, only on the particular defenses raised by the third party.

(4) The court shall allow discovery against a third party on an issue only after all discovery on that issue between the parties has been completed and only if the evidence produced as a result of the discovery does not resolve an issue of material dispute between the parties.

(5) Any confidential or otherwise sensitive information submitted by a party pursuant to this section is subject to a protective order.

NEW SECTION. **Sec. 9.** A court may not enforce an award of damages against a third party pursuant to section 6(2) of this act for a period of eighteen months from the effective date of this section.

NEW SECTION. **Sec. 10.** A violation of this chapter may not be considered a violation of the state consumer protection act, and chapter 19.86 RCW does not apply to this chapter. The remedies provided under this chapter are the exclusive remedies for the parties.

NEW SECTION. **Sec. 11.** 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. 12.** Sections 1 through 10 of this act constitute a new chapter in Title 19 RCW."

Senator Kohl-Welles 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 1, line 24 of the amendment, after "product" strike all material through "act"

On page 1, line 28 of the amendment, after "product" strike all material through "act"

Beginning on page 1, line 30 of the amendment, after "product" strike all material through "act" on page 2, line 1

On page 2, beginning of line 9 of the amendment, after "person" strike all material through "act" on line 10

On page 2, beginning of line 12 of the amendment, after "person" strike all material through "act" on line 13

On page 2, line 23 of the amendment, after "products" strike all material through "act"

Beginning on page 2, line 24 of the amendment, strike all of sections 2 through 11 and insert the following:

"NEW SECTION. **Sec. 2.** (1) The legislature recognizes that:

(a) Manufacturers are a vital source of jobs and economic growth in the state;

(b) Manufacturers in this state might suffer a loss of sales, market share, and jobs if they are forced to compete against companies that use stolen or misappropriated information technology because such illegal use can unfairly lower production costs and could result in that manufacturer gaining an unfair competitive edge;

(c) The theft of American information technology is particularly rampant in foreign markets, with software piracy rates reaching as high as ninety percent in some countries, costing the United States economy jobs and economic growth; and

(d) Manufacturers that use significant amounts of stolen or misappropriated information technology to reduce their costs should not be allowed to benefit from their illegal acts.

(2) The legislature therefore directs the joint legislative audit and review committee to study the impacts of stolen or misappropriated information technology in this state. The joint legislative audit and review committee must analyze:

(a) How existing state and federal laws relating to unfair trade practices currently address the harm that occurs when manufacturers use stolen or misappropriated information technology to gain an unfair competitive advantage over companies that play by the rules;

(b) The impact restricting the use of stolen information technology would have on retailers, importers, manufacturers, and wholesalers, and the state's economy;

(c) The piracy rate of information technology in the state;

(d) The impact piracy has on manufactured goods in this state; and

(e) Whether a state-by-state restriction versus a uniform federal restriction would have different impacts on the use of stolen information technology and the advantages and disadvantages to both approaches.

(3) In conducting its study, the joint legislative audit and review committee must consult with manufacturers, retailers, technology companies, phone companies, car manufacturers, copyright attorneys, and other appropriate entities.

(4) A report containing the joint legislative audit and review committee's findings and recommendations must be delivered to the legislature by December 1, 2012."

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

On page 15, line 2 of the title amendment, after "RCW;" insert "creating a new section;"

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

Senator Kohl-Welles spoke against adoption of the amendment to the committee striking amendment.

MOTION

On motion of Senator Hatfield, Senator Pridemore was excused.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 1, line 24 to the committee striking amendment to Substitute House Bill No. 1495.

The motion by Senator Honeyford failed and the 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 Labor, Commerce & Consumer Protection to Substitute House Bill No. 1495.

The motion by Senator Kohl-Welles 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 "state;" strike the remainder of the title and insert "adding a new chapter to Title 19 RCW; and prescribing penalties."

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 1495 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senator Honeyford spoke against passage of the bill.

POINT OF INQUIRY

Senator Brown: "Would Senator Kohl-Welles yield to a question? Senator Kohl-Welles, retailers have expressed concerns about their culpability under this bill for unwittingly selling products that have been manufactured using pirated information technology. To address these concerns this bill allows Washington companies to offer an affirmative defense against the claim that their supply chains contains stolen IT. How does the affirmative defense safe harbor work?"

Senator Kohl-Welles: "Thank you for the question. The bill asks retailers to take reasonable steps to ensure that their supply chains are clean and free of stolen technology but it also protects them from assuming responsibility for the illegal action of others. It does this in two ways; first, a company can enter into a code of conduct agreement with the manufacturer expressly forbidding their use of stolen information technology. This agreement would be subject to audit by a third party representing the interest of the IT owner. If that the audit reveals that stolen information technology is being used by manufacturer, the manufacturer is liable and not the retailer. Another way this can happen is with the company that has an existing code of conduct agreement with the manufacturer but is silent on the issue of pirated information technology. This agreement can be grandfathered under the bill and the company could then protect itself from the liability when a claim arises against the manufacturer by requiring that the manufacturer seize the theft and secondly not continue to purchase from the manufacturer until the manufacturer can provide invoices or other documentation to prove that it's no longer in violation. And I think it's really important to note that retailers perhaps more than any other business group understand the threat that poses to their economic liability. Both of these safe harbor options allow retailers the opportunity to be partners with IT owners in ridding stolen information technology from Washington supply chain."

Senator Brown 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. 1495 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1495 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 39; Nays, 8; Absent, 0; Excused, 2.

Voting yea: Senators Baxter, Becker, Benton, Brown, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Carrell, Ericksen, Holmquist Newbry, Honeyford, Morton, Sheldon and Stevens

Excused: Senators Prentice and Pridemore

SUBSTITUTE HOUSE BILL NO. 1495 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. 1808, by House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Lytton, Dammeier, Maxwell, Dahlquist, Sullivan, Reykdal, Liias, Finn, Sells, Orwall, Rolfes and Kenney)

Creating the launch year program.

The measure was read the second time.

MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed Second Substitute House Bill No. 1808 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator White, Senator Nelson was excused.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1808.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1808 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 4; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Pflug, Prentice, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Ericksen, Holmquist Newbry, Honeyford and Stevens

Excused: Senators Nelson and Pridemore

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1808, 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. 1163, by House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Liias, Johnson, Maxwell, Santos, Sullivan, Walsh, Orwall, Moeller, Van De Wege, Pedersen, McCoy, Ladenburg, Goodman, Hunt, Jinkins, Reykdal, Ormsby, Sells, Frockt, Upthegrove, Kagi, Blake, Fitzgibbon, Kenney, Stanford, Ryu, Miloscia, Carlyle, Pettigrew, Moscoso, Probst, Seaquist, Finn, Roberts, Appleton, Billig, Hasegawa, Clibborn, Hurst, Hudgins, Jacks, Dunshee, Green, Tharinger, Darneille and Rolfes)

Concerning harassment, intimidation, and bullying prevention. Revised for 2nd Substitute: Creating a work group on preventing bullying, intimidation, and harassment and increasing student knowledge on mental health and youth suicide.

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 having updated school district policies and procedures is a step in the right direction for preventing bullying, intimidation, and harassment, but more steps are needed. A work group could help to maintain focus and attention on antibullying and antiharassment, as well as monitor progress. In addition, students' knowledge and understanding of two key correlates of bullying and harassment, depression and youth suicide, could be enhanced through instruction and assessments that address mental health and suicide prevention.

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

(1) The office of the superintendent of public instruction and the office of the education ombudsman shall convene a work group on school bullying and harassment prevention to develop, recommend, and implement strategies to improve school climate and create respectful learning environments in all public schools in Washington. The superintendent of public instruction or a designee shall serve as the chair of the work group.

(2) The work group shall:

(a) Consider whether additional disaggregated data should be collected regarding incidents of bullying and harassment or disciplinary actions and make recommendations to the office of the superintendent of public instruction for collection of such data;

(b) Examine possible procedures for anonymous reporting of incidents of bullying and harassment;

(c) Identify curriculum and best practices for school districts to improve school climate, create respectful learning environments, and train staff and students in de-escalation and intervention techniques;

(d) Identify curriculum and best practices for incorporating instruction about mental health, youth suicide prevention, and prevention of bullying and harassment;

(e) Recommend best practices for informing parents about the harassment, intimidation, and bullying prevention policy and procedure under RCW 28A.300.285 and involving parents in improving school climate;

(f) Recommend training for district personnel who are designated as the primary contact regarding the policy and procedure and for school resource officers and other school security personnel;

(g) Recommend educator preparation and certification requirements in harassment, intimidation, and bullying prevention and de-escalation and intervention techniques for teachers, educational staff associates, and school administrators;

(h) Examine and recommend policies for discipline of students and staff who harass, intimidate, or bully; and

(i) In collaboration with the state board for community and technical colleges, examine and recommend policies to protect K-12 students attending community and technical colleges from harassment, intimidation, and bullying.

(3) The work group must include representatives from the state board of education, the Washington state parent teacher association, the Washington state association of school psychologists, school directors, school administrators, principals, teachers, school counselors, classified school staff, youth, community organizations, and parents.

(4) The work group shall submit a biennial progress and status report to the governor and the education committees of the legislature, beginning December 1, 2011, with additional reports by December 1, 2013, and December 1, 2015.

(5) The work group is terminated effective January 1, 2016.

NEW SECTION. **Sec. 3.** The office of the superintendent of public instruction shall work with state agency and community partners to develop pilot projects to assist schools in implementing youth suicide prevention activities.

NEW SECTION. **Sec. 4.** (1) The state board for community and technical colleges shall compile and analyze policies and procedures adopted by community and technical colleges regarding harassment, intimidation, and bullying prevention.

(2) The higher education coordinating board shall compile and analyze policies and procedures adopted by four-year institutions of higher education regarding harassment, intimidation, and bullying prevention.

(3) Each board under this section shall submit a report with recommendations for improvements in the policies and procedures to the education and higher education committees of the legislature by December 1, 2011, to include:

(a) Whether additional disaggregated data should be collected regarding incidents of bullying and harassment or disciplinary actions;

(b) Recommendations as to training for institutional personnel who are designated as the primary contact regarding the policy and procedure; and

(c) An examination of and recommendations for policies for disciplining students and staff who harass, intimidate, or bully.

Sec. 5. RCW 28A.230.095 and 2009 c 556 s 8 are each amended to read as follows:

(1) By the end of the 2008-09 school year, school districts shall have in place in elementary schools, middle schools, and high schools assessments or other strategies chosen by the district to assure that students have an opportunity to learn the essential academic learning requirements in social studies, the arts, and health and fitness. Social studies includes history, geography, civics, economics, and social studies skills. Health and fitness includes, but is not limited to, mental health and suicide prevention education. Beginning with the 2008-09 school year, school districts shall annually submit an implementation verification report to the office of the superintendent of public instruction. The office of the superintendent of public instruction may not require school districts to use a classroom-based assessment in social studies, the arts, and health and fitness to meet the requirements of this section and shall clearly communicate to districts their option to use other strategies chosen by the district.

(2) Beginning with the 2008-09 school year, school districts shall require students in the seventh or eighth grade, and the eleventh or twelfth grade to each complete at least one classroom-based assessment in civics. Beginning with the 2010-11 school year, school districts shall require students in the fourth or fifth grade to complete at least one classroom-based assessment in civics. The civics assessment may be selected from a list of classroom-based assessments approved by the office of the superintendent of public instruction. Beginning with the 2008-09 school year, school districts shall annually submit implementation verification reports to the office of the superintendent of public instruction documenting the use of the classroom-based assessments in civics.

(3) Verification reports shall require school districts to report only the information necessary to comply with this section.

NEW SECTION. **Sec. 6.** Section 5 of this act takes effect July 1, 2012."

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

MOTION

On motion of Senator White, Senator Conway was excused.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Second Substitute House Bill No. 1163.

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 "prevention;" strike the remainder of the title and insert "amending RCW 28A.230.095; adding a new section to chapter 28A.300 RCW; creating new sections; and providing an effective date."

MOTION

On motion of Senator McAuliffe, the rules were suspended, Second Substitute House Bill No. 1163 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.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1163 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1163 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 41; Nays, 6; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist

Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Tom, White and Zarelli

Voting nay: Senators Baxter, Honeyford, Morton, Schoesler, Stevens and Swecker

Excused: Senators Conway and Nelson

SECOND SUBSTITUTE HOUSE BILL NO. 1163 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. 1546, by House Committee on Ways & Means (originally sponsored by Representatives Hargrove, Hunt, Dammeier, Pettigrew, Liias, Smith, Anderson, Fagan, Kretz, Dahlquist, Angel, Zeiger, Jinkins and Finn)

Authorizing creation of innovation schools and innovation zones in school districts.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

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

(a) School district boards of directors are encouraged to support the expansion of innovative K-12 school or K-12 program models focused on science, technology, engineering, and mathematics (STEM) that partner with business, industry, and higher education to increase STEM pathways that use project-based or hands-on learning for elementary, middle, and high school students; and

(b) Particularly in schools and communities that are struggling to improve student academic outcomes and close the educational opportunity gap, there is a critical need for innovative models of public education that are tailored to STEM-related programs that implement interdisciplanary instructional delivery methods that are engaging, rigorous, and culturally relevant at each grade level.

(2) Therefore, the legislature intends to create a framework for change that includes:

(a) Leveraging community assets;

(b) Improving staff capacity and effectiveness;

(c) Developing family, school, business, industry, STEM professionals, and higher education partnerships in STEM education at all grade levels that can lead to industry certification or dual high school and college credit;

(d) Implementing evidence-based practices proven to be effective in reducing demographic disparities in student achievement; and

(e) Enabling educators and parents of selected schools and school districts to restructure school operations and develop model STEM programs that will improve student performance and close the educational opportunity gap.

NEW SECTION. **Sec. 2.** (1) The office of the superintendent of public instruction shall develop a process for school districts to apply to have one or more schools within the district designated as an innovation school focused on science, technology, engineering, and mathematics that actively partners with the community, business, industry, and higher education, and uses project-based or hands-on learning. A group of schools that share common interests, such as geographical location, or that sequentially serve classes of students as they progress through elementary and secondary grades may be designated as an innovation zone. An innovation zone may include all schools within a school district. Consortia of multiple districts may also apply for designation as an innovation zone, to include all schools within the participating districts.

(2) Applications requesting designation of innovation schools or innovation zones must be developed by the school district in collaboration with educators, parents, businesses, industries, and the communities of participating schools. School districts must ensure that each school has substantial opportunity to participate in the development of the innovation plan under section 4 of this act.

(3) The office of the superintendent of public instruction shall develop common criteria for reviewing applications and for evaluating the need for waivers of state statutes and administrative rules as provided under section 5 of this act.

NEW SECTION. **Sec. 3.** (1) Applications to designate innovation schools and innovation zones must be submitted by school district boards of directors to their respective educational service districts by January 6, 2012, to be implemented beginning in the 2012-13 school year. Innovation plans must be able to be implemented without supplemental state funds.

(2) Each educational service district boards of directors shall review applications from within the district using the common criteria developed by the office of the superintendent of public instruction. Each educational service district shall recommend approval by the office of the superintendent of public instruction of no more than three applications from within each educational service district, except that any educational service district with over three hundred fifty thousand full-time equivalent students may recommend approval of no more than ten applications from within the educational service district. At least one of the recommended applications in each educational service district must propose an innovation zone, as long as the application meets the review criteria.

(3) The office of the superintendent of public instruction shall approve the innovation plans of the applicants recommended by the educational service districts. School districts that have applied shall be notified by March 1, 2012, whether they were selected.

(4) Designation of innovation schools and innovation zones under this section shall be for a six-year period, beginning in the 2012-13 school year, unless the designation is revoked in accordance with section 7 of this act.

NEW SECTION. **Sec. 4.** (1) Each application for designation of an innovation school or innovation zone must include a proposed plan that:

(a) Defines the scope of the innovation school or innovation zone and describes why designation would enhance the ability of the school or schools to improvement student achievement and close the educational opportunity gap by implementing a program focused on science, technology, engineering, and mathematics themes that partner with the community, business, industry, and higher education and use project-based or hands-on learning;

(b) Enumerates specific, research-based activities and innovations to be carried out under the designation;

(c) Justifies each request for waiver of state statutes or administrative rules as provided under section 5 of this act;

(d) Justifies any requests for waiver of state statutes or administrative rules that are in addition to the waivers authorized under section 5 of this act that are necessary to carry out the proposed innovations;

(e) Identifies the improvements in student achievement and the educational opportunity gap that are expected to be accomplished through the innovations;

(f) Includes budget plans and anticipated sources of funding, including private grants and contributions, if any;

(g) Identifies the technical resources desired, the potential costs of those resources, and the institutions of higher education, educational service districts, businesses, industries, or consultants available to provide such services;

(h) Identifies the multiple measures for evaluation and accountability to be used to measure improvement in student achievement, closure in the educational opportunity gap, and the overall performance of the innovation school or innovation zone, including but not limited to assessment scores, graduation rates, and dropout rates;

(i) Includes a written statement that school directors and administrators are willing to exempt the designated school or schools from specifically identified local rules, as needed;

(j) Includes a written statement that school directors and local bargaining agents will modify those portions of their local agreements as applicable for the designated school or schools;

(k) Includes written statements of support from the district's board of directors, the superintendent, the principal and staff of schools seeking designation, each local employee association affected by the proposal, the local parent organization, and statements of support, willingness to participate, or concerns from any interested parent, business, institution of higher education, or community organization; and

(l) Commits all parties to work cooperatively during the term of the pilot project.

(2) A plan to designate an innovation school or innovation zone must be approved by a majority of the staff assigned to the school or schools participating in the plan.

NEW SECTION. **Sec. 5.** (1)(a) The superintendent of public instruction and the state board of education, each within the scope of their statutory authority, may grant waivers of state statutes and administrative rules for designated innovation schools and innovation zones as follows:

(i) Waivers may be granted under RCW 28A.655.180 and 28A.305.140;

(ii) Waivers may be granted to permit the commingling of funds appropriated by the legislature on a categorical basis for such programs as, but not limited to, highly capable students, transitional bilingual instruction, and learning assistance; and

(iii) Waivers may be granted of other administrative rules that in the opinion of the superintendent of public instruction or the state board of education are necessary to be waived to implement an innovation school or innovation zone.

(b) State administrative rules dealing with public health, safety, and civil rights, including accessibility for individuals with disabilities, may not be waived.

(2) At the request of a school district, the superintendent of public instruction may petition the United States department of education or other federal agencies to waive federal regulations necessary to implement an innovation school or innovation zone.

(3) The state board of education may grant waivers for innovation schools or innovation zones of administrative rules pertaining to calculation of course credits for high school courses.

(4) Waivers may be granted under this section for a period not to exceed the duration of the designation of the innovation school or innovation zone.

(5) The superintendent of public instruction and the state board of education shall provide an expedited review of requests for waivers for designated innovation schools and innovation zones. Requests may be denied if the superintendent of public instruction or the state board of education conclude that the waiver:

(a) Is likely to result in a decrease in academic achievement in the innovation school or innovation zone;

(b) Would jeopardize the receipt of state or federal funds that a school district would otherwise be eligible to receive, unless the school district submits a written authorization for the waiver acknowledging that receipt of these funds could be jeopardized; or

(c) Would violate state or federal laws or rules that are not authorized to be waived.

NEW SECTION. **Sec. 6.** (1) The office of the superintendent of public instruction shall report to the education committees of the legislature on the progress of the designated innovation schools and innovation zones by January 15, 2013, and January 15th of each odd-numbered year thereafter. The report must include recommendations for waiver of state laws and administrative rules in addition to the waivers authorized under section 5 of this act, as identified in innovation plans submitted by school districts.

(2) Each innovation school and innovation zone must submit an annual report to the office of the superintendent of public instruction on their progress.

(3) The office of the superintendent of public instruction, through the center for the improvement of student learning, must collect and disseminate to all school districts and other interested parties information about the innovation schools and innovation zones.

NEW SECTION. **Sec. 7.** After reviewing the annual reports of each innovation school and zone, if the office of the superintendent of public instruction determines that the school or zone is not increasing progress over time as determined by the multiple measures for evaluation and accountability provided in the school or zone plan in accordance with section 4 of this act then the superintendent shall revoke the designation.

Sec. 8. RCW 28A.305.140 and 1990 c 33 s 267 are each amended to read as follows:

(1) The state board of education may grant waivers to school districts from the provisions of RCW 28A.150.200 through 28A.150.220 on the basis that such waiver or waivers are necessary to:

(a) Implement successfully a local plan to provide for all students in the district an effective education system that is designed to enhance the educational program for each student. The local plan may include alternative ways to provide effective educational programs for students who experience difficulty with the regular education program; or

(b) Implement an innovation school or innovation zone designated under section 3 of this act.

(2) The state board shall adopt criteria to evaluate the need for the waiver or waivers.

Sec. 9. RCW 28A.655.180 and 2009 c 543 s 3 are each amended to read as follows:

(1) The state board of education, where appropriate, or the superintendent of public instruction, where appropriate, may grant waivers to districts from the provisions of statutes or rules relating to: The length of the school year; student-to-teacher ratios; and other administrative rules that in the opinion of the state board of education or the opinion of the superintendent of public instruction may need to be waived in order for a district to implement a plan for restructuring its educational program or the educational program of individual schools within the district or to implement an innovation school or innovation zone designated under section 3 of this act.

(2) School districts may use the application process in RCW 28A.305.140 to apply for the waivers under this section.

NEW SECTION. **Sec. 10.** Sections 2 through 7 of this act are each added to chapter 28A.630 RCW.

NEW SECTION. **Sec. 11.** This act expires June 30, 2019."

Senators McAuliffe and Litzow 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 Early Learning & K-12 Education to Engrossed Second Substitute House Bill No. 1546.

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 "to" strike the remainder of the title and insert "authorizing creation of innovation schools and innovation zones focused on science, technology, engineering, and mathematics in school districts; amending RCW 28A.305.140 and 28A.655.180; adding new sections to chapter 28A.630 RCW; creating a new section; and providing an expiration date."

MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed Second Substitute House Bill No. 1546 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.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1546 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1546 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 Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Ericksen

Excused: Senators Conway and Nelson

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1546 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 3:49 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 4:02 p.m. by President Owen.

SECOND READING

HOUSE BILL NO. 1303, by Representatives Jinkins, Kelley, Van De Wege, Liias and Reykdal

Concerning the insurance commissioner's authority to review and disapprove rates for certain insurance products.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, House Bill No. 1303 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senator Pflug spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1303.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1303 and the bill passed the Senate by the following vote: Yeas, 37; Nays, 9; Absent, 1; Excused, 2.

Voting yea: Senators Baxter, Becker, Benton, Brown, Carrell, Chase, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Ericksen, Hewitt, Holmquist Newbry, Honeyford, Parlette, Pflug, Schoesler and Sheldon

Absent: Senator Shin

Excused: Senators Conway and Nelson

HOUSE BILL NO. 1303, 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. 1937, by Representatives Ryu, Kenney, Moscoso, Ladenburg and Roberts

Authorizing local improvement district funding to benefit innovation partnership zones for the purposes of economic development.

The measure was read the second time.

MOTION

On motion of Senator Kastama, the rules were suspended, House Bill No. 1937 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1937.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1937 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Conway and Nelson

HOUSE BILL NO. 1937, 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. 1215, by Representatives Liias, Rodne, Goodman and Kenney

Clarifying the application of the fifteen-day storage limit on liens for impounded vehicles.

The measure was read the second time.

MOTION

On motion of Senator Haugen, the rules were suspended, House Bill No. 1215 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen 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. 1215.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1215 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

HOUSE BILL NO. 1215, 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. 1037, by House Committee on Judiciary (originally sponsored by Representatives Ross, Johnson, Bailey, Upthegrove, Hurst, Armstrong, Walsh, Hinkle, Angel, Warnick, Schmick, Short, Klippert, Dammeier, McCune, Fagan, Nealey, Blake, Ladenburg, Kristiansen, Pearson, Tharinger and Moeller)

Placing restrictions on legal claims initiated by persons serving criminal sentences in correctional facilities.

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.** A new section is added to chapter 4.24 RCW to read as follows:

If a person serving a criminal sentence in a federal, state, local, or privately operated correctional facility seeks leave to proceed in state court without payment of filing fees in any civil action or appeal against the state, a state or local governmental agency or entity, or a state or local official, employee, or volunteer acting in such capacity, except an action that, if successful, would affect the duration of the person's confinement, the court shall deny the request for waiver of the court filing fees if the person has, on three or more occasions while incarcerated or detained in any such facility, brought an action or appeal that was dismissed by a state or federal court on grounds that it was frivolous or malicious. One of the three previous dismissals must have involved an action or appeal commenced after the effective date of this section. A court may permit the person to commence the action or appeal without payment of filing fees if the court determines the person is in imminent danger of serious physical or psychological injury."

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. 1037.

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 2 of the title, after "facilities;" strike the remainder of the title and insert "and adding a new section to chapter 4.24 RCW."

MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 1037 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1037 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1037 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain,

Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1037 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. 1105, by House Committee on Early Learning & Human Services (originally sponsored by Representatives Kagi, Walsh, Kenney, Maxwell and Roberts)

Addressing child fatality review in child welfare cases.

The measure was read the second time.

MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 1105 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1105.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1105 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1105, 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. 1334, by Representatives Nealey, Hurst, Walsh, Johnson, Klippert, Haler, Rodne, Bailey, Short, Dammeier, Pearson, McCune, Warnick, Hinkle, Kelley, Orcutt, Chandler, Rivers, Ross, Schmick and Smith

Authorizing civil judgments for assault.

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 72.09.015 and 2010 c 181 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Adult basic education" means education or instruction designed to achieve general competence of skills in reading, writing, and oral communication, including English as a second language and preparation and testing services for obtaining a high school diploma or a general equivalency diploma.

(2) "Base level of correctional services" means the minimum level of field services the department of corrections is required by statute to provide for the supervision and monitoring of offenders.

(3) "Civil judgment for assault" means a civil judgment for monetary damages awarded to a correctional officer or department employee entered by a court of competent jurisdiction against an inmate that is based on, or arises from, injury to the correctional officer or department employee caused by the inmate while the correctional officer or department employee was acting in the course and scope of his or her employment.

(4) "Community custody" has the same meaning as that provided in RCW 9.94A.030 and also includes community placement and community supervision as defined in RCW 9.94B.020.

((~~(4)~~)) (5) "Contraband" means any object or communication the secretary determines shall not be allowed to be: (a) Brought into; (b) possessed while on the grounds of; or (c) sent from any institution under the control of the secretary.

((~~(5)~~)) (6) "Correctional facility" means a facility or institution operated directly or by contract by the secretary for the purposes of incarcerating adults in total or partial confinement, as defined in RCW 9.94A.030.

((~~(6)~~)) (7) "County" means a county or combination of counties.

((~~(7)~~)) (8) "Department" means the department of corrections.

((~~(8)~~)) (9) "Earned early release" means earned release as authorized by RCW ((~~9.94A.728~~)) 9.94A.729.

((~~(9)~~)) (10) "Evidence-based" means a program or practice that has had multiple-site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective in reducing recidivism for the population.

((~~(10)~~)) (11) "Extended family visit" means an authorized visit between an inmate and a member of his or her immediate family that occurs in a private visiting unit located at the correctional facility where the inmate is confined.

((~~(11)~~)) (12) "Good conduct" means compliance with department rules and policies.

((~~(12)~~)) (13) "Good performance" means successful completion of a program required by the department, including an education, work, or other program.

((~~(13)~~)) (14) "Immediate family" means the inmate's children, stepchildren, grandchildren, great grandchildren, parents, stepparents, grandparents, great grandparents, siblings, and a person legally married to or in a state registered domestic partnership with an inmate. "Immediate family" does not include an inmate adopted by another inmate or the immediate family of the adopted or adopting inmate.

((~~(14)~~)) (15) "Indigent inmate," "indigent," and "indigency" mean an inmate who has less than a ten-dollar balance of disposable income in his or her institutional account on the day a request is made to utilize funds and during the thirty days previous to the request.

(((~~(15)~~))) (16) "Individual reentry plan" means the plan to prepare an offender for release into the community. It should be developed collaboratively between the department and the offender and based on an assessment of the offender using a standardized and comprehensive tool to identify the offender's risks and needs. The individual reentry plan describes actions that should occur to prepare individual offenders for release from prison or jail, specifies the supervision and services they will experience in the community, and describes an offender's eventual discharge to aftercare upon successful completion of supervision. An individual reentry plan is updated throughout the period of an offender's incarceration and supervision to be relevant to the offender's current needs and risks.

(((~~(16)~~))) (17) "Inmate" means a person committed to the custody of the department, including but not limited to persons residing in a correctional institution or facility and persons released from such facility on furlough, work release, or community custody, and persons received from another state, state agency, county, or federal jurisdiction.

(((~~(17)~~))) (18) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix.

(((~~(18)~~))) (19) "Physical restraint" means the use of any bodily force or physical intervention to control an offender or limit an offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent an offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive offender who is unwilling to leave the area voluntarily; or

(c) Guide an offender from one location to another.

(((~~(19)~~))) (20) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the woman or youth leaves the hospital, birthing center, or clinic.

(((~~(20)~~))) (21) "Privilege" means any goods or services, education or work programs, or earned early release days, the receipt of which are directly linked to an inmate's (a) good conduct; and (b) good performance. Privileges do not include any goods or services the department is required to provide under the state or federal Constitution or under state or federal law.

(((~~(21)~~))) (22) "Promising practice" means a practice that presents, based on preliminary information, potential for becoming a research-based or consensus-based practice.

(((~~(22)~~))) (23) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(((~~(23)~~))) (24) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons.

(((~~(24)~~))) (25) "Secretary" means the secretary of corrections or his or her designee.

(((~~(25)~~))) (26) "Significant expansion" includes any expansion into a new product line or service to the class I business that results from an increase in benefits provided by the department, including a decrease in labor costs, rent, or utility rates (for water, sewer, electricity, and disposal), an increase in work program space, tax advantages, or other overhead costs.

(((~~(26)~~))) (27) "Superintendent" means the superintendent of a correctional facility under the jurisdiction of the Washington state department of corrections, or his or her designee.

(((~~(27)~~))) (28) "Transportation" means the conveying, by any means, of an incarcerated pregnant woman or youth from the correctional facility to another location from the moment she leaves the correctional facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated woman or youth from the correctional facility to a transport vehicle and from the vehicle to the other location.

(((~~(28)~~))) (29) "Unfair competition" means any net competitive advantage that a business may acquire as a result of a correctional industries contract, including labor costs, rent, tax advantages, utility rates (water, sewer, electricity, and disposal), and other overhead costs. To determine net competitive advantage, the correctional industries board shall review and quantify any expenses unique to operating a for-profit business inside a prison.

(((~~(29)~~))) (30) "Vocational training" or "vocational education" means "vocational education" as defined in RCW 72.62.020.

(((~~(30)~~))) (31) "Washington business" means an in-state manufacturer or service provider subject to chapter 82.04 RCW existing on June 10, 2004.

(((~~(31)~~))) (32) "Work programs" means all classes of correctional industries jobs authorized under RCW 72.09.100.

Sec. 2. RCW 72.09.111 and 2010 c 122 s 5 and 2010 c 116 s 1 are each reenacted and amended to read as follows:

(1) The secretary shall deduct taxes and legal financial obligations from the gross wages, gratuities, or workers' compensation benefits payable directly to the inmate under chapter 51.32 RCW, of each inmate working in correctional industries work programs, or otherwise receiving such wages, gratuities, or benefits. The secretary shall also deduct child support payments from the gratuities of each inmate working in class II through class IV correctional industries work programs. The secretary shall develop a formula for the distribution of offender wages, gratuities, and benefits. The formula shall not reduce the inmate account below the indigency level, as defined in RCW 72.09.015.

(a) The formula shall include the following minimum deductions from class I gross wages and from all others earning at least minimum wage:

(i) Five percent to the crime victims' compensation account provided in RCW 7.68.045;

(ii) Ten percent to a department personal inmate savings account;

(iii) Twenty percent to the department to contribute to the cost of incarceration; (((~~and~~)))

(iv) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court; and

(v) Twenty percent for payment of any civil judgment for assault for inmates who are subject to a civil judgment for assault in any Washington state court or federal court.

(b) The formula shall include the following minimum deductions from class II gross gratuities:

(i) Five percent to the crime victims' compensation account provided in RCW 7.68.045;

(ii) Ten percent to a department personal inmate savings account;

(iii) Fifteen percent to the department to contribute to the cost of incarceration;

(iv) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court; (((~~and~~)))

(v) Fifteen percent for any child support owed under a support order; and

(vi) Fifteen percent for payment of any civil judgment for

assault for inmates who are subject to a civil judgment for assault in any Washington state court or federal court.

(c) The formula shall include the following minimum deductions from any workers' compensation benefits paid pursuant to RCW 51.32.080:

(i) Five percent to the crime victims' compensation account provided in RCW 7.68.045;

(ii) Ten percent to a department personal inmate savings account;

(iii) Twenty percent to the department to contribute to the cost of incarceration; and

(iv) An amount equal to any legal financial obligations owed by the inmate established by an order of any Washington state superior court up to the total amount of the award.

(d) The formula shall include the following minimum deductions from class III gratuities:

(i) Five percent for the crime victims' compensation account provided in RCW 7.68.045; ((~~and~~))

(ii) Fifteen percent for any child support owed under a support order; and

(iii) Fifteen percent for payment of any civil judgment for assault for inmates who are subject to a civil judgment for assault in any Washington state court or federal court.

(e) The formula shall include the following minimum deduction from class IV gross gratuities:

(i) Five percent to the department to contribute to the cost of incarceration; ((~~and~~))

(ii) Fifteen percent for any child support owed under a support order; and

(iii) Fifteen percent for payment of any civil judgment for assault for inmates who are subject to a civil judgment for assault in any Washington state court or federal court.

(2) Any person sentenced to life imprisonment without possibility of release or parole under chapter 10.95 RCW or sentenced to death shall be exempt from the requirement under subsection (1)(a)(ii), (b)(ii), or (c)(ii).

(3)(a) The department personal inmate savings account, together with any accrued interest, may be made available to an inmate at the following times:

(i) During confinement to pay for accredited postsecondary educational expenses;

(ii) Prior to the release from confinement to pay for department-approved reentry activities that promote successful community reintegration; or

(iii) When the secretary determines that an emergency exists for the inmate.

(b) The secretary shall establish guidelines for the release of funds pursuant to (a) of this subsection, giving consideration to the inmate's need for resources at the time of his or her release from confinement.

(c) Any funds remaining in an offender's personal inmate savings account shall be made available to the offender at the time of his or her release from confinement.

(4) The management of classes I, II, and IV correctional industries may establish an incentive payment for offender workers based on productivity criteria. This incentive shall be paid separately from the hourly wage/gratuity rate and shall not be subject to the specified deduction for cost of incarceration.

(5) In the event that the offender worker's wages, gratuity, or workers' compensation benefit is subject to garnishment for support enforcement, the crime victims' compensation account, savings, and cost of incarceration deductions shall be calculated on the net wages after taxes, legal financial obligations, and garnishment.

(6) The department shall explore other methods of recovering a portion of the cost of the inmate's incarceration and for encouraging participation in work programs, including development of incentive programs that offer inmates benefits and amenities paid for only from wages earned while working in a correctional industries work program.

(7) The department shall develop the necessary administrative structure to recover inmates' wages and keep records of the amount inmates pay for the costs of incarceration and amenities. All funds deducted from inmate wages under subsection (1) of this section for the purpose of contributions to the cost of incarceration shall be deposited in a dedicated fund with the department and shall be used only for the purpose of enhancing and maintaining correctional industries work programs.

(8) It shall be in the discretion of the secretary to apportion the inmates between class I and class II depending on available contracts and resources.

(9) Nothing in this section shall limit the authority of the department of social and health services division of child support from taking collection action against an inmate's moneys, assets, or property pursuant to chapter 26.23, 74.20, or 74.20A RCW.

Sec. 3. RCW 72.09.480 and 2010 c 122 s 6 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, the definitions in this section apply to this section.

(a) "Cost of incarceration" means the cost of providing an inmate with shelter, food, clothing, transportation, supervision, and other services and supplies as may be necessary for the maintenance and support of the inmate while in the custody of the department, based on the average per inmate costs established by the department and the office of financial management.

(b) "Minimum term of confinement" means the minimum amount of time an inmate will be confined in the custody of the department, considering the sentence imposed and adjusted for the total potential earned early release time available to the inmate.

(c) "Program" means any series of courses or classes necessary to achieve a proficiency standard, certificate, or postsecondary degree.

(2) When an inmate, except as provided in subsections (4) and (8) of this section, receives any funds in addition to his or her wages or gratuities, except settlements or awards resulting from legal action, the additional funds shall be subject to the following deductions and the priorities established in chapter 72.11 RCW:

(a) Five percent to the crime victims' compensation account provided in RCW 7.68.045;

(b) Ten percent to a department personal inmate savings account;

(c) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court;

(d) Twenty percent for any child support owed under a support order; ((~~and~~))

(e) Twenty percent to the department to contribute to the cost of incarceration; and

(f) Twenty percent for payment of any civil judgment for assault for all inmates who are subject to a civil judgment for assault in any Washington state court or federal court.

(3) When an inmate, except as provided in subsection (8) of this section, receives any funds from a settlement or award resulting from a legal action, the additional funds shall be subject to the deductions in RCW 72.09.111(1)(a) and the priorities established in chapter 72.11 RCW.

(4) When an inmate who is subject to a child support order receives funds from an inheritance, the deduction required under subsection (2)(e) and (f) of this section shall only apply after the child support obligation has been paid in full.

(5) The amount deducted from an inmate's funds under subsection (2) of this section shall not exceed the department's total cost of incarceration for the inmate incurred during the inmate's minimum or actual term of confinement, whichever is longer.

(6)(a) The deductions required under subsection (2) of this section shall not apply to funds received by the department from an offender or from a third party on behalf of an offender for payment of education or vocational programs or postsecondary education degree programs as provided in RCW 72.09.460 and 72.09.465.

(b) The deductions required under subsection (2) of this section shall not apply to funds received by the department from a third party, including but not limited to a nonprofit entity on behalf of the department's education, vocation, or postsecondary education degree programs.

(7) The deductions required under subsection (2) of this section shall not apply to any money received by the department, on behalf of an inmate, from family or other outside sources for the payment of postage expenses. Money received under this subsection may only be used for the payment of postage expenses and may not be transferred to any other account or purpose. Money that remains unused in the inmate's postage fund at the time of release shall be subject to the deductions outlined in subsection (2) of this section.

(8) When an inmate sentenced to life imprisonment without possibility of release or sentenced to death under chapter 10.95 RCW receives funds, deductions are required under subsection (2) of this section, with the exception of a personal inmate savings account under subsection (2)(b) of this section.

(9) The secretary of the department of corrections, or his or her designee, may exempt an inmate from a personal inmate savings account under subsection (2)(b) of this section if the inmate's earliest release date is beyond the inmate's life expectancy.

(10) The interest earned on an inmate savings account created as a result of the plan in section 4, chapter 325, Laws of 1999 shall be exempt from the mandatory deductions under this section and RCW 72.09.111.

(11) Nothing in this section shall limit the authority of the department of social and health services division of child support, the county clerk, or a restitution recipient from taking collection action against an inmate's moneys, assets, or property pursuant to chapter 9.94A, 26.23, 74.20, or 74.20A RCW including, but not limited to, the collection of moneys received by the inmate from settlements or awards resulting from legal action."

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 House Bill No. 1334.

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 "assault;" strike the remainder of the title and insert "amending RCW 72.09.015 and 72.09.480; reenacting and amending RCW 72.09.111; and prescribing penalties."

MOTION

On motion of Senator Hargrove, the rules were suspended, House Bill No. 1334 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1334 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1334 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

HOUSE BILL NO. 1334 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. 1478, by House Committee on Local Government (originally sponsored by Representatives Springer, Asay, Takko, Orcutt, Haler, Rivers, Eddy, Hunt, Klippert, Sullivan, Goodman, Clibborn, Armstrong, Probst, Jacks, Johnson and Kenney)

Delaying or modifying certain regulatory and statutory requirements affecting cities and counties.

The measure was read the second time.

MOTION

Senator Pridemore moved that the following committee striking amendment by the Committee on Government Operations, Tribal Relations & Elections be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** It is the legislature's intent to provide local governments with more time to meet certain statutory requirements. Many cities and counties in Washington are facing revenue shortfalls, higher expenses, and more difficulty with borrowing money as a result of the economic downturn. The effects of the economic downturn on the budgets of local governments will be felt most deeply from 2010 to 2012. Local governments are facing the combined impact of decreased tax revenues, a falloff in state and federal aid, and increased demand for social services. With the loss of tax revenue and state and federal aid, local governments are being forced to make significant cuts that will eliminate jobs, curtail essential services, and increase the number of people in need. Additionally, local governments are struggling to comply with certain statutory requirements. Local governments want to comply with these statutory requirements, but with budget constraints, they need more time to do so. The legislature does not intend to remove any existing statutory requirement, but rather modify the time under which a local government must meet certain statutory requirements.

Sec. 2. RCW 36.70A.130 and 2010 c 216 s 1 and 2010 c 211 s 2 are each reenacted and amended to read as follows:

(1)(a) Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them. Except as otherwise provided, a county or city shall take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section.

(b) Except as otherwise provided, a county or city not planning under RCW 36.70A.040 shall take action to review and, if needed, revise its policies and development regulations regarding critical areas and natural resource lands adopted according to this chapter to ensure these policies and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section. Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefor.

(c) ((The review and evaluation required by this subsection may be combined with the review required by subsection (3) of this section.)) The review and evaluation required by this subsection shall include, but is not limited to, consideration of critical area ordinances and, if planning under RCW 36.70A.040, an analysis of the population allocated to a city or county from the most recent ten-year population forecast by the office of financial management.

(d) Any amendment of or revision to a comprehensive land use plan shall conform to this chapter. Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan.

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program consistent with RCW 36.70A.035 and 36.70A.140 that identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year. "Updates" means to review and revise, if needed, according to subsection (1) of this section, and the deadlines in subsections (4) and (5) of this section or in accordance with the provisions of subsection (6) of this section. Amendments may be considered more frequently than once per year under the following circumstances:

(i) The initial adoption of a subarea plan. Subarea plans adopted under this subsection (2)(a)(i) must clarify, supplement, or implement jurisdiction-wide comprehensive plan policies, and may only be adopted if the cumulative impacts of the proposed plan are addressed by appropriate environmental review under chapter 43.21C RCW;

(ii) The development of an initial subarea plan for economic development located outside of the one hundred year floodplain in a county that has completed a state-funded pilot project that is based on watershed characterization and local habitat assessment;

(iii) The adoption or amendment of a shoreline master program under the procedures set forth in chapter 90.58 RCW;

(iv) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget; or

(v) The adoption of comprehensive plan amendments necessary to enact a planned action under RCW 43.21C.031(2), provided that amendments are considered in accordance with the public participation program established by the county or city under this subsection (2)(a) and all persons who have requested notice of a comprehensive plan update are given notice of the amendments and an opportunity to comment.

(b) Except as otherwise provided in (a) of this subsection, all proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation a county or city may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with the growth management hearings board or with the court.

(3)(a) Each county that designates urban growth areas under RCW 36.70A.110 shall review, ((~~at least every ten years~~)) according to the schedules established in subsection (5) of this section, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas.

(b) The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period. The review required by this subsection may be combined with the review and evaluation required by RCW 36.70A.215.

(4) Except as provided in subsection (6) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) On or before December 1, 2004, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties;

(b) On or before December 1, 2005, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties;

(c) On or before December 1, 2006, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before December 1, 2007, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(5) Except as otherwise provided in subsection (6) of this section, following the review of comprehensive plans and development regulations required by subsection (4) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) On or before ((~~December 1, 2014~~)) June 30, 2015, and every ((~~seven~~)) eight years thereafter, for ((~~Clallam, Clark, Jefferson,~~)) King, ((~~Kitsap,~~)) Pierce, and Snohomish((~~, Thurston, and Whatcom~~)) counties and the cities within those counties;

(b) On or before ((~~December 1, 2015~~)) June 30, 2016, and every ((~~seven~~)) eight years thereafter, for ((~~Cowlitz,~~)) Clallam, Clark, Island, ((~~Lewis~~)) Jefferson, Kitsap, Mason, San Juan, Skagit, Thurston, and ((~~Skamania~~)) Whatcom counties and the cities within those counties;

(c) On or before ((~~December 1, 2016~~)) June 30, 2017, and every ((~~seven~~)) eight years thereafter, for Benton, Chelan, Cowlitz,

Douglas, ((~~Grant,~~)) Kittitas, Lewis, Skamania, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before ((~~December 1, 2017~~)) June 30, 2018, and every ((~~seven~~)) eight years thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(6)(a) Nothing in this section precludes a county or city from conducting the review and evaluation required by this section before the deadlines established in subsections (4) and (5) of this section. Counties and cities may begin this process early and may be eligible for grants from the department, subject to available funding, if they elect to do so.

(b) A county that is subject to a deadline established in subsection (4)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the thirty-six months following the deadline established in subsection (4) of this section: The county has a population of less than fifty thousand and has had its population increase by no more than seventeen percent in the ten years preceding the deadline established in subsection (4) of this section as of that date.

(c) A city that is subject to a deadline established in subsection (4)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the thirty-six months following the deadline established in subsection (4) of this section: The city has a population of no more than five thousand and has had its population increase by the greater of either no more than one hundred persons or no more than seventeen percent in the ten years preceding the deadline established in subsection (4) of this section as of that date.

(d) A county or city that is subject to a deadline established in subsection (4)(d) of this section and that meets the criteria established in subsection (6)(b) or (c) of this section may comply with the requirements of subsection (4)(d) of this section at any time within the thirty-six months after the extension provided in subsection (6)(b) or (c) of this section.

(e) A county that is subject to a deadline established in subsection (5)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the twenty-four months following the deadline established in subsection (5) of this section: The county has a population of less than fifty thousand and has had its population increase by no more than seventeen percent in the ten years preceding the deadline established in subsection (5) of this section as of that date.

(f) A city that is subject to a deadline established in subsection (5)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the twenty-four months following the deadline established in subsection (5) of this section: The city has a population of no more than five thousand and has had its population increase by the greater of either no more than one hundred persons or no more than seventeen percent in the ten years preceding the deadline established in subsection (5) of this section as of that date.

(g) State agencies are encouraged to provide technical assistance to the counties and cities in the review of critical area ordinances, comprehensive plans, and development regulations.

(7)(a) The requirements imposed on counties and cities under this section shall be considered "requirements of this chapter" under the terms of RCW 36.70A.040(1). Only those counties and cities that meet the following criteria may receive grants, loans, pledges, or financial guarantees under chapter 43.155 or 70.146 RCW:

(i) Complying with the deadlines in this section;

(ii) Demonstrating substantial progress towards compliance with the schedules in this section for development regulations that protect critical areas; or

(iii) Complying with the extension provisions of subsection (6)(b), (c), or (d) of this section.

(b) A county or city that is fewer than twelve months out of compliance with the schedules in this section for development regulations that protect critical areas is making substantial progress towards compliance. Only those counties and cities in compliance with the schedules in this section may receive preference for grants or loans subject to the provisions of RCW 43.17.250.

Sec. 3. RCW 36.70A.215 and 1997 c 429 s 25 are each amended to read as follows:

(1) Subject to the limitations in subsection (7) of this section, a county shall adopt, in consultation with its cities, countywide planning policies to establish a review and evaluation program. This program shall be in addition to the requirements of RCW 36.70A.110, 36.70A.130, and 36.70A.210. In developing and implementing the review and evaluation program required by this section, the county and its cities shall consider information from other appropriate jurisdictions and sources. The purpose of the review and evaluation program shall be to:

(a) Determine whether a county and its cities are achieving urban densities within urban growth areas by comparing growth and development assumptions, targets, and objectives contained in the countywide planning policies and the county and city comprehensive plans with actual growth and development that has occurred in the county and its cities; and

(b) Identify reasonable measures, other than adjusting urban growth areas, that will be taken to comply with the requirements of this chapter.

(2) The review and evaluation program shall:

(a) Encompass land uses and activities both within and outside of urban growth areas and provide for annual collection of data on urban and rural land uses, development, critical areas, and capital facilities to the extent necessary to determine the quantity and type of land suitable for development, both for residential and employment-based activities;

(b) Provide for evaluation of the data collected under (a) of this subsection every ((~~five~~)) four years as provided in subsection (3) of this section. The ((~~first~~)) next evaluation shall be completed not later than ((~~September 1, 2002~~)) June 30, 2013. The county and its cities may establish in the countywide planning policies indicators, benchmarks, and other similar criteria to use in conducting the evaluation;

(c) Provide for methods to resolve disputes among jurisdictions relating to the countywide planning policies required by this section and procedures to resolve inconsistencies in collection and analysis of data; and

(d) Provide for the amendment of the countywide policies and county and city comprehensive plans as needed to remedy an inconsistency identified through the evaluation required by this section, or to bring these policies into compliance with the requirements of this chapter.

(3) At a minimum, the evaluation component of the program required by subsection (1) of this section shall:

(a) Determine whether there is sufficient suitable land to accommodate the countywide population projection established for the county pursuant to RCW 43.62.035 and the subsequent population allocations within the county and between the county and its cities and the requirements of RCW 36.70A.110;

(b) Determine the actual density of housing that has been constructed and the actual amount of land developed for commercial and industrial uses within the urban growth area since the adoption of a comprehensive plan under this chapter or since the last periodic evaluation as required by subsection (1) of this section; and

(c) Based on the actual density of development as determined under (b) of this subsection, review commercial, industrial, and housing needs by type and density range to determine the amount of

land needed for commercial, industrial, and housing for the remaining portion of the twenty-year planning period used in the most recently adopted comprehensive plan.

(4) If the evaluation required by subsection (3) of this section demonstrates an inconsistency between what has occurred since the adoption of the countywide planning policies and the county and city comprehensive plans and development regulations and what was envisioned in those policies and plans and the planning goals and the requirements of this chapter, as the inconsistency relates to the evaluation factors specified in subsection (3) of this section, the county and its cities shall adopt and implement measures that are reasonably likely to increase consistency during the subsequent five-year period. If necessary, a county, in consultation with its cities as required by RCW 36.70A.210, shall adopt amendments to countywide planning policies to increase consistency. The county and its cities shall annually monitor the measures adopted under this subsection to determine their effect and may revise or rescind them as appropriate.

(5)(a) Not later than July 1, 1998, the department shall prepare a list of methods used by counties and cities in carrying out the types of activities required by this section. The department shall provide this information and appropriate technical assistance to counties and cities required to or choosing to comply with the provisions of this section.

(b) By December 31, 2007, the department shall submit to the appropriate committees of the legislature a report analyzing the effectiveness of the activities described in this section in achieving the goals envisioned by the countywide planning policies and the comprehensive plans and development regulations of the counties and cities.

(6) From funds appropriated by the legislature for this purpose, the department shall provide grants to counties, cities, and regional planning organizations required under subsection (7) of this section to conduct the review and perform the evaluation required by this section.

(7) The provisions of this section shall apply to counties, and the cities within those counties, that were greater than one hundred fifty thousand in population in 1995 as determined by office of financial management population estimates and that are located west of the crest of the Cascade mountain range. However, the provisions of this section shall not apply to any city with a population of ten thousand inhabitants or fewer. Any other county planning under RCW 36.70A.040 may carry out the review, evaluation, and amendment programs and procedures as provided in this section.

Sec. 4. RCW 43.19.648 and 2009 c 459 s 7 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, effective June 1, 2015, all state agencies and local government subdivisions of the state, to the extent determined practicable by the rules adopted by the department of ((~~community, trade, and economic development~~)) commerce pursuant to RCW 43.325.080, are required to satisfy one hundred percent of their fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel.

(2) Effective June 1, 2018, all cities and counties, to the extent determined practicable by the rules adopted by the department of commerce pursuant to RCW 43.325.080, are required to satisfy one hundred percent of their fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel.

(3) In order to phase in this transition for the state, all state agencies, to the extent determined practicable by the department of ((~~community, trade, and economic development~~)) commerce by rules adopted pursuant to RCW 43.325.080, are required to achieve forty percent fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel by June 1, 2013. The department of general administration, in consultation with the department of ((~~community, trade, and economic development~~)) commerce, shall report to the governor and the legislature by December 1, 2013, on what percentage of the state's fuel usage is from electricity or biofuel.

((~~(3)~~)) (4) Except for cars owned or operated by the Washington state patrol, when tires on vehicles in the state's motor vehicle fleet are replaced, they must be replaced with tires that have the same or better rolling resistance as the original tires.

((~~(4)~~)) (5) By December 31, 2015, the state must, to the extent practicable, install electrical outlets capable of charging electric vehicles in each of the state's fleet parking and maintenance facilities.

((~~(5)~~)) (6) The department of transportation's obligations under subsection ((~~(2)~~)) (3) of this section are subject to the availability of amounts appropriated for the specific purpose identified in subsection ((~~(2)~~)) (3) of this section.

((~~(6)~~)) (7) The department of transportation's obligations under subsection ((~~(4)~~)) (5) of this section are subject to the availability of amounts appropriated for the specific purpose identified in subsection ((~~(4)~~)) (5) of this section unless the department receives federal or private funds for the specific purpose identified in subsection ((~~(4)~~)) (5) of this section.

((~~(7)~~)) (8) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

Sec. 5. RCW 43.325.080 and 2007 c 348 s 204 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, by June 1, 2010, the department shall adopt rules to define practicability and clarify how state agencies and local government subdivisions will be evaluated in determining whether they have met the goals set out in RCW 43.19.648(1). At a minimum, the rules must address:

((~~(1)~~)) (a) Criteria for determining how the goal in RCW 43.19.648(1) will be met by June 1, 2015;

((~~(2)~~)) (b) Factors considered to determine compliance with the goal in RCW 43.19.648(1), including but not limited to: The regional availability of fuels; vehicle costs; differences between types of vehicles, vessels, or equipment; the cost of program implementation; and cost differentials in different parts of the state; and

((~~(3)~~)) (c) A schedule for phased-in progress towards meeting the goal in RCW 43.19.648(1) that may include different schedules for different fuel applications or different quantities of biofuels.

(2) By June 1, 2015, the department shall adopt rules to define practicability and clarify how cities and counties will be evaluated in determining whether they have met the goals set out in RCW 43.19.648(2). At a minimum, the rules must address:

(a) Criteria for determining how the goal in RCW 43.19.648(2) will be met by June 1, 2018;

(b) Factors considered to determine compliance with the goal in RCW 43.19.648(2), including but not limited to: The regional availability of fuels; vehicle costs; differences between types of vehicles, vessels, or equipment; the cost of program

implementation; and cost differentials in different parts of the state; and

(c) A schedule for phased-in progress towards meeting the goal in RCW 43.19.648(2) that may include different schedules for different fuel applications or different quantities of biofuels.

Sec. 6. RCW 43.185C.210 and 2008 c 256 s 1 are each amended to read as follows:

(1) The transitional housing operating and rent program is created in the department to assist individuals and families who are homeless or who are at risk of becoming homeless to secure and retain safe, decent, and affordable housing. The department shall provide grants to eligible organizations, as described in RCW 43.185.060, to provide assistance to program participants. The eligible organizations must use grant moneys for:

(a) Rental assistance, which includes security or utility deposits, first and last month's rent assistance, and eligible moving expenses to be determined by the department;

(b) Case management services designed to assist program participants to secure and retain immediate housing and to transition into permanent housing and greater levels of self-sufficiency;

(c) Operating expenses of transitional housing facilities that serve homeless families with children; and

(d) Administrative costs of the eligible organization, which must not exceed limits prescribed by the department.

(2) Eligible to receive assistance through the transitional housing operating and rent program are:

(a) Families with children who are homeless or who are at risk of becoming homeless and who have household incomes at or below fifty percent of the median household income for their county;

(b) Families with children who are homeless or who are at risk of becoming homeless and who are receiving services under chapter 13.34 RCW;

(c) Individuals or families without children who are homeless or at risk of becoming homeless and who have household incomes at or below thirty percent of the median household income for their county;

(d) Individuals or families who are homeless or who are at risk of becoming homeless and who have a household with an adult member who has a mental health or chemical dependency disorder; and

(e) Individuals or families who are homeless or who are at risk of becoming homeless and who have a household with an adult member who is an offender released from confinement within the past eighteen months.

(3) All program participants must be willing to create and actively participate in a housing stability plan for achieving permanent housing and greater levels of self-sufficiency.

(4) Data on all program participants must be entered into and tracked through the Washington homeless client management information system as described in RCW 43.185C.180. For eligible organizations serving victims of domestic violence or sexual assault, compliance with this subsection must be accomplished in accordance with 42 U.S.C. Sec. 11383(a)(8).

(5) ((Beginning in 2011, each eligible organization receiving over five hundred thousand dollars during the previous calendar year from the transitional housing operating and rent program and from sources including: (a) State housing-related funding sources; (b) the affordable housing for all surcharge in RCW 36.22.178; (c) the home security fund surcharges in RCW 36.22.179 and 36.22.1791; and (d) any other surcharge imposed under chapter 36.22 or 43.185C RCW to fund homelessness programs or other housing programs, shall apply to the Washington state quality award program for an independent assessment of its quality management, accountability, and performance system, once every three years.

(6))) The department may develop rules, requirements, procedures, and guidelines as necessary to implement and operate the transitional housing operating and rent program.

((~~(7)~~)) (6) The department shall produce an annual transitional housing operating and rent program report that must be included in the department's homeless housing strategic plan as described in RCW 43.185C.040. The report must include performance measures to be determined by the department that address, at a minimum, the following issue areas:

(a) The success of the program in helping program participants transition into permanent affordable housing and achieve self-sufficiency or increase their levels of self-sufficiency, which shall be defined by the department based upon the costs of living, including housing costs, needed to support: (i) One adult individual; and (ii) two adult individuals and one preschool-aged child and one school-aged child;

(b) The financial performance of the program related to efficient program administration by the department and program operation by selected eligible organizations, including an analysis of the costs per program participant served;

(c) The quality, completeness, and timeliness of the information on program participants provided to the Washington homeless client management information system database; and

(d) The satisfaction of program participants in the assistance provided through the program.

Sec. 7. RCW 46.68.113 and 2006 c 334 s 21 are each amended to read as follows:

During the ((~~2003-2005~~)) 2013-2015 biennium, cities and towns shall provide to the transportation commission, or its successor entity, preservation rating information on at least seventy percent of the total city and town arterial network. Thereafter, the preservation rating information requirement shall increase in five percent increments in subsequent biennia, but in no case shall it exceed eighty percent. The rating system used by cities and towns must be based upon the Washington state pavement rating method or an equivalent standard approved by the department of transportation. Beginning January 1, 2007, the preservation rating information shall be submitted to the department.

Sec. 8. RCW 82.02.070 and 2009 c 263 s 1 are each amended to read as follows:

(1) Impact fee receipts shall be earmarked specifically and retained in special interest-bearing accounts. Separate accounts shall be established for each type of public facility for which impact fees are collected. All interest shall be retained in the account and expended for the purpose or purposes for which the impact fees were imposed. Annually, each county, city, or town imposing impact fees shall provide a report on each impact fee account showing the source and amount of all moneys collected, earned, or received and system improvements that were financed in whole or in part by impact fees.

(2) Impact fees for system improvements shall be expended only in conformance with the capital facilities plan element of the comprehensive plan.

(3)(a) Except as provided otherwise by (b) of this subsection, impact fees shall be expended or encumbered for a permissible use within ((~~six~~)) ten years of receipt, unless there exists an extraordinary and compelling reason for fees to be held longer than ((~~six~~)) ten years. Such extraordinary or compelling reasons shall be identified in written findings by the governing body of the county, city, or town.

(b) School impact fees must be expended or encumbered for a permissible use within ten years of receipt, unless there exists an extraordinary and compelling reason for fees to be held longer than ten years. Such extraordinary or compelling reasons shall be identified in written findings by the governing body of the county, city, or town.

(4) Impact fees may be paid under protest in order to obtain a permit or other approval of development activity.

(5) Each county, city, or town that imposes impact fees shall provide for an administrative appeals process for the appeal of an impact fee; the process may follow the appeal process for the underlying development approval or the county, city, or town may establish a separate appeals process. The impact fee may be modified upon a determination that it is proper to do so based on principles of fairness. The county, city, or town may provide for the resolution of disputes regarding impact fees by arbitration.

Sec. 9. RCW 82.02.080 and 1990 1st ex.s. c 17 s 47 are each amended to read as follows:

(1) The current owner of property on which an impact fee has been paid may receive a refund of such fees if the county, city, or town fails to expend or encumber the impact fees within ((~~six~~)) ten years of when the fees were paid or other such period of time established pursuant to RCW 82.02.070(3) on public facilities intended to benefit the development activity for which the impact fees were paid. In determining whether impact fees have been encumbered, impact fees shall be considered encumbered on a first in, first out basis. The county, city, or town shall notify potential claimants by first-class mail deposited with the United States postal service at the last known address of claimants.

The request for a refund must be submitted to the county, city, or town governing body in writing within one year of the date the right to claim the refund arises or the date that notice is given, whichever is later. Any impact fees that are not expended within these time limitations, and for which no application for a refund has been made within this one-year period, shall be retained and expended on the indicated capital facilities. Refunds of impact fees under this subsection shall include interest earned on the impact fees.

(2) When a county, city, or town seeks to terminate any or all impact fee requirements, all unexpended or unencumbered funds, including interest earned, shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the county, city, or town shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first-class mail to the last known address of claimants. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the local government, but must be expended for the indicated public facilities. This notice requirement shall not apply if there are no unexpended or unencumbered balances within an account or accounts being terminated.

(3) A developer may request and shall receive a refund, including interest earned on the impact fees, when the developer does not proceed with the development activity and no impact has resulted.

Sec. 10. RCW 90.46.015 and 2009 c 456 s 2 are each amended to read as follows:

(1) The department of ecology shall, in coordination with the department of health, adopt rules for reclaimed water use consistent with this chapter. The rules must address all aspects of reclaimed water use, including commercial and industrial uses, land applications, direct groundwater recharge, wetland discharge, surface percolation, constructed wetlands, and streamflow or surface water augmentation. The department of health shall, in coordination with the department of ecology, adopt rules for greywater reuse. The rules must also designate whether the department of ecology or the department of health will be the lead agency responsible for a particular aspect of reclaimed water use. In developing the rules, the departments of health and ecology shall amend or rescind any existing rules on reclaimed water in conflict with the new rules.

(2) All rules required to be adopted pursuant to this section must be completed no later than December 31, 2010, ((~~although the department of ecology is encouraged to adopt the final rules as soon as possible~~)) except that the department of ecology shall adopt rules for reclaimed water use no earlier than June 30, 2013.

(3) The department of ecology must consult with the advisory committee created under RCW 90.46.050 in all aspects of rule development required under this section.

Sec. 11. RCW 90.48.260 and 2007 c 341 s 55 are each amended to read as follows:

(1) The department of ecology is hereby designated as the state water pollution control agency for all purposes of the federal clean water act as it exists on February 4, 1987, and is hereby authorized to participate fully in the programs of the act as well as to take all action necessary to secure to the state the benefits and to meet the requirements of that act. With regard to the national estuary program established by section 320 of that act, the department shall exercise its responsibility jointly with the Puget Sound partnership, created in RCW 90.71.210. The department of ecology may delegate its authority under this chapter, including its national pollutant discharge elimination permit system authority and duties regarding animal feeding operations and concentrated animal feeding operations, to the department of agriculture through a memorandum of understanding. Until any such delegation receives federal approval, the department of agriculture's adoption or issuance of animal feeding operation and concentrated animal feeding operation rules, permits, programs, and directives pertaining to water quality shall be accomplished after reaching agreement with the director of the department of ecology. Adoption or issuance and implementation shall be accomplished so that compliance with such animal feeding operation and concentrated animal feeding operation rules, permits, programs, and directives will achieve compliance with all federal and state water pollution control laws. The powers granted herein include, among others, and notwithstanding any other provisions of chapter 90.48 RCW or otherwise, the following:

(((~~(1)~~))) (a) Complete authority to establish and administer a comprehensive state point source waste discharge or pollution discharge elimination permit program which will enable the department to qualify for full participation in any national waste discharge or pollution discharge elimination permit system and will allow the department to be the sole agency issuing permits required by such national system operating in the state of Washington subject to the provisions of RCW 90.48.262(2). Program elements authorized herein may include, but are not limited to: (((~~(a)~~))) (i) Effluent treatment and limitation requirements together with timing requirements related thereto; (((~~(b)~~))) (ii) applicable receiving water quality standards requirements; (((~~(c)~~))) (iii) requirements of standards of performance for new sources; (((~~(d)~~))) (iv) pretreatment requirements; (((~~(e)~~))) (v) termination and modification of permits for cause; (((~~(f)~~))) (vi) requirements for public notices and opportunities for public hearings; (((~~(g)~~))) (vii) appropriate relationships with the secretary of the army in the administration of his responsibilities which relate to anchorage and navigation, with the administrator of the environmental protection agency in the performance of his duties, and with other governmental officials under the federal clean water act; (((~~(h)~~))) (viii) requirements for inspection, monitoring, entry, and reporting; (((~~(i)~~))) (ix) enforcement of the program through penalties, emergency powers, and criminal sanctions; (((~~(j)~~))) (x) a continuing planning process; and (((~~(k)~~))) (xi) user charges.

(((~~(2)~~))) (b) The power to establish and administer state programs in a manner which will insure the procurement of moneys, whether in the form of grants, loans, or otherwise; to assist in the construction, operation, and maintenance of various water pollution control facilities and works; and the administering of various state

water pollution control management, regulatory, and enforcement programs.

(((~~(3)~~))) (c) The power to develop and implement appropriate programs pertaining to continuing planning processes, area-wide waste treatment management plans, and basin planning.

The governor shall have authority to perform those actions required of him or her by the federal clean water act.

(2) By July 31, 2012, the department shall:

(a) Reissue without modification and for a term of one year any national pollutant discharge elimination system municipal storm water general permit first issued on January 17, 2007; and

(b) Issue an updated national pollutant discharge elimination system municipal storm water general permit for any permit first issued on January 17, 2007. An updated permit issued under this subsection shall become effective beginning August 1, 2013.

Sec. 12. RCW 90.58.080 and 2007 c 170 s 1 are each amended to read as follows:

(1) Local governments shall develop or amend a master program for regulation of uses of the shorelines of the state consistent with the required elements of the guidelines adopted by the department in accordance with the schedule established by this section.

(2)(a) Subject to the provisions of subsections (5) and (6) of this section, each local government subject to this chapter shall develop or amend its master program for the regulation of uses of shorelines within its jurisdiction according to the following schedule:

(i) On or before December 1, 2005, for the city of Port Townsend, the city of Bellingham, the city of Everett, Snohomish county, and Whatcom county;

(ii) On or before December 1, 2009, for King county and the cities within King county greater in population than ten thousand;

(iii) Except as provided by (a)(i) and (ii) of this subsection, on or before December 1, 2011, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties;

(iv) On or before December 1, 2012, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties;

(v) On or before December 1, 2013, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and

(vi) On or before December 1, 2014, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(b) Nothing in this subsection (2) shall preclude a local government from developing or amending its master program prior to the dates established by this subsection (2).

(3)(a) Following approval by the department of a new or amended master program, local governments required to develop or amend master programs on or before December 1, 2009, as provided by subsection (2)(a)(i) and (ii) of this section, shall be deemed to have complied with the schedule established by subsection (2)(a)(iii) of this section and shall not be required to complete master program amendments until ((~~seven years after~~)) the applicable dates established by subsection (((~~(2)(a)(iii)~~))) (4)(b) of this section. Any jurisdiction listed in subsection (2)(a)(i) of this section that has a new or amended master program approved by the department on or after March 1, 2002, but before July 27, 2003, shall not be required to complete master program amendments until ((~~seven years after~~)) the applicable date provided by subsection (((~~(2)(a)(iii)~~))) (4)(b) of this section.

(b) Following approval by the department of a new or amended master program, local governments choosing to develop or amend master programs on or before December 1, 2009, shall be deemed to have complied with the schedule established by subsection (2)(a)(iii) through (vi) of this section and shall not be required to complete master program amendments until ((~~seven years after~~)) the applicable dates established by subsection (((~~(2)(a)(iii) through (vi)~~))) (4)(b) of this section.

(4)(a) Following the updates required by subsection (2) of this section, local governments shall conduct a review of their master programs at least once every ((~~seven~~)) eight years ((~~after the applicable dates established by subsection (2)(a)(iii) through (vi) of this section~~)) as required by (b) of this subsection. Following the review required by this subsection (4), local governments shall, if necessary, revise their master programs. The purpose of the review is:

(((~~(a)~~))) (i) To assure that the master program complies with applicable law and guidelines in effect at the time of the review; and

(((~~(b)~~))) (ii) To assure consistency of the master program with the local government's comprehensive plan and development regulations adopted under chapter 36.70A RCW, if applicable, and other local requirements.

(b) Counties and cities shall take action to review and, if necessary, revise their master programs as required by (a) of this subsection as follows:

(i) On or before June 30, 2019, and every eight years thereafter, for King, Pierce, and Snohomish counties and the cities within those counties;

(ii) On or before June 30, 2020, and every eight years thereafter, for Clallam, Clark, Island, Jefferson, Kitsap, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;

(iii) On or before June 30, 2021, and every eight years thereafter, for Benton, Chelan, Cowlitz, Douglas, Grant, Kittitas, Lewis, Skamania, Spokane, and Yakima counties and the cities within those counties; and

(iv) On or before June 30, 2022, and every eight years thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(5) In meeting the update requirements of subsection (2) of this section, local governments are encouraged to begin the process of developing or amending their master programs early and are eligible for grants from the department as provided by RCW 90.58.250, subject to available funding. Except for those local governments listed in subsection (2)(a)(i) and (ii) of this section, the deadline for completion of the new or amended master programs shall be two years after the date the grant is approved by the department. Subsequent master program review dates shall not be altered by the provisions of this subsection.

(6) In meeting the update requirements of subsection (2) of this section, the following shall apply:

(a) Grants to local governments for developing and amending master programs pursuant to the schedule established by this section shall be provided at least two years before the adoption dates specified in subsection (2) of this section. To the extent possible, the department shall allocate grants within the amount appropriated for such purposes to provide reasonable and adequate funding to local governments that have indicated their intent to develop or amend master programs during the biennium according to the schedule established by subsection (2) of this section. Any local government that applies for but does not receive funding to comply with the provisions of subsection (2) of this section may delay the development or amendment of its master program until the following biennium.

(b) Local governments with delayed compliance dates as provided in (a) of this subsection shall be the first priority for funding in subsequent biennia, and the development or amendment

compliance deadline for those local governments shall be two years after the date of grant approval.

(c) Failure of the local government to apply in a timely manner for a master program development or amendment grant in accordance with the requirements of the department shall not be considered a delay resulting from the provisions of (a) of this subsection.

(7) ((~~Notwithstanding the provisions~~)) In meeting the update requirements of subsection (2) of this section, all local governments subject to the requirements of this chapter that have not developed or amended master programs on or after March 1, 2002, shall, no later than December 1, 2014, develop or amend their master programs to comply with guidelines adopted by the department after January 1, 2003.

(8) In meeting the update requirements of subsection (2) of this section, local governments may be provided an additional year beyond the deadlines in this section to complete their master program or amendment. The department shall grant the request if it determines that the local government is likely to adopt or amend its master program within the additional year.

Sec. 13. RCW 90.58.090 and 2003 c 321 s 3 are each amended to read as follows:

(1) A master program, segment of a master program, or an amendment to a master program shall become effective when approved by the department. Within the time period provided in RCW 90.58.080, each local government shall have submitted a master program, either totally or by segments, for all shorelines of the state within its jurisdiction to the department for review and approval.

The department shall strive to achieve final action on a submitted master program within one hundred eighty days of receipt and shall post an annual assessment related to this performance benchmark on the agency web site.

(2) Upon receipt of a proposed master program or amendment, the department shall:

(a) Provide notice to and opportunity for written comment by all interested parties of record as a part of the local government review process for the proposal and to all persons, groups, and agencies that have requested in writing notice of proposed master programs or amendments generally or for a specific area, subject matter, or issue. The comment period shall be at least thirty days, unless the department determines that the level of complexity or controversy involved supports a shorter period;

(b) In the department's discretion, conduct a public hearing during the thirty-day comment period in the jurisdiction proposing the master program or amendment;

(c) Within fifteen days after the close of public comment, request the local government to review the issues identified by the public, interested parties, groups, and agencies and provide a written response as to how the proposal addresses the identified issues;

(d) Within thirty days after receipt of the local government response pursuant to (c) of this subsection, make written findings and conclusions regarding the consistency of the proposal with the policy of RCW 90.58.020 and the applicable guidelines, provide a response to the issues identified in (c) of this subsection, and either approve the proposal as submitted, recommend specific changes necessary to make the proposal approvable, or deny approval of the proposal in those instances where no alteration of the proposal appears likely to be consistent with the policy of RCW 90.58.020 and the applicable guidelines. The written findings and conclusions shall be provided to the local government, all interested persons, parties, groups, and agencies of record on the proposal;

(e) If the department recommends changes to the proposed master program or amendment, within thirty days after the department mails the written findings and conclusions to the local government, the local government may:

(i) Agree to the proposed changes. The receipt by the department of the written notice of agreement constitutes final action by the department approving the amendment; or

(ii) Submit an alternative proposal. If, in the opinion of the department, the alternative is consistent with the purpose and intent of the changes originally submitted by the department and with this chapter it shall approve the changes and provide written notice to all recipients of the written findings and conclusions. If the department determines the proposal is not consistent with the purpose and intent of the changes proposed by the department, the department may resubmit the proposal for public and agency review pursuant to this section or reject the proposal.

(3) The department shall approve the segment of a master program relating to shorelines unless it determines that the submitted segments are not consistent with the policy of RCW 90.58.020 and the applicable guidelines.

(4) The department shall approve the segment of a master program relating to critical areas as defined by RCW 36.70A.030(5) provided the master program segment is consistent with RCW 90.58.020 and applicable shoreline guidelines, and if the segment provides a level of protection of critical areas at least equal to that provided by the local government's critical areas ordinances adopted and thereafter amended pursuant to RCW 36.70A.060(2).

(5) The department shall approve those segments of the master program relating to shorelines of statewide significance only after determining the program provides the optimum implementation of the policy of this chapter to satisfy the statewide interest. If the department does not approve a segment of a local government master program relating to a shoreline of statewide significance, the department may develop and by rule adopt an alternative to the local government's proposal.

(6) In the event a local government has not complied with the requirements of RCW 90.58.070 it may thereafter upon written notice to the department elect to adopt a master program for the shorelines within its jurisdiction, in which event it shall comply with the provisions established by this chapter for the adoption of a master program for such shorelines.

Upon approval of such master program by the department it shall supersede such master program as may have been adopted by the department for such shorelines.

(7) A master program or amendment to a master program takes effect when and in such form as approved or adopted by the department. Shoreline master programs that were adopted by the department prior to July 22, 1995, in accordance with the provisions of this section then in effect, shall be deemed approved by the department in accordance with the provisions of this section that became effective on that date. The department shall maintain a record of each master program, the action taken on any proposal for adoption or amendment of the master program, and any appeal of the department's action. The department's approved document of record constitutes the official master program."

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

MOTION

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

Beginning on page 6, line 34 of the amendment, strike all of section 3 and insert the following:

"**Sec. 3.** RCW 36.70A.215 and 1997 c 429 s 25 are each amended to read as follows:

(1) Subject to the limitations in subsection (7) of this section, a county shall adopt, in consultation with its cities, countywide planning policies to establish a review and evaluation program. This program shall be in addition to the requirements of RCW 36.70A.110, 36.70A.130, and 36.70A.210. In developing and implementing the review and evaluation program required by this section, the county and its cities shall consider information from other appropriate jurisdictions and sources. The purpose of the review and evaluation program shall be to:

(a) Determine whether a county and its cities are achieving urban densities within urban growth areas by comparing growth and development assumptions, targets, and objectives contained in the countywide planning policies and the county and city comprehensive plans with actual growth and development that has occurred in the county and its cities; and

(b) Identify reasonable measures, other than adjusting urban growth areas, that will be taken to comply with the requirements of this chapter.

(2) The review and evaluation program shall:

(a) Encompass land uses and activities both within and outside of urban growth areas and provide for annual collection of data on urban and rural land uses, development, critical areas, and capital facilities to the extent necessary to determine the quantity and type of land suitable for development, both for residential and employment-based activities;

(b) Provide for evaluation of the data collected under (a) of this subsection ((~~every five years~~)) as provided in subsection (3) of this section. ((~~The first evaluation shall be completed not later than September 1, 2002.~~)) The evaluation shall be completed no later than one year prior to the deadline for review and, if necessary, update of comprehensive plans and development regulations as required by RCW 36.70A.130. The county and its cities may establish in the countywide planning policies indicators, benchmarks, and other similar criteria to use in conducting the evaluation;

(c) Provide for methods to resolve disputes among jurisdictions relating to the countywide planning policies required by this section and procedures to resolve inconsistencies in collection and analysis of data; and

(d) Provide for the amendment of the countywide policies and county and city comprehensive plans as needed to remedy an inconsistency identified through the evaluation required by this section, or to bring these policies into compliance with the requirements of this chapter.

(3) At a minimum, the evaluation component of the program required by subsection (1) of this section shall:

(a) Determine whether there is sufficient suitable land to accommodate the countywide population projection established for the county pursuant to RCW 43.62.035 and the subsequent population allocations within the county and between the county and its cities and the requirements of RCW 36.70A.110;

(b) Determine the actual density of housing that has been constructed and the actual amount of land developed for commercial and industrial uses within the urban growth area since the adoption of a comprehensive plan under this chapter or since the last periodic evaluation as required by subsection (1) of this section; and

(c) Based on the actual density of development as determined under (b) of this subsection, review commercial, industrial, and housing needs by type and density range to determine the amount of land needed for commercial, industrial, and housing for the remaining portion of the twenty-year planning period used in the most recently adopted comprehensive plan.

(4) If the evaluation required by subsection (3) of this section demonstrates an inconsistency between what has occurred since the adoption of the countywide planning policies and the county and city comprehensive plans and development regulations and what was envisioned in those policies and plans and the planning goals and the requirements of this chapter, as the inconsistency relates to the evaluation factors specified in subsection (3) of this section, the county and its cities shall adopt and implement measures that are reasonably likely to increase consistency during the subsequent five-year period. If necessary, a county, in consultation with its cities as required by RCW 36.70A.210, shall adopt amendments to countywide planning policies to increase consistency. The county and its cities shall annually monitor the measures adopted under this subsection to determine their effect and may revise or rescind them as appropriate.

(5)(a) Not later than July 1, 1998, the department shall prepare a list of methods used by counties and cities in carrying out the types of activities required by this section. The department shall provide this information and appropriate technical assistance to counties and cities required to or choosing to comply with the provisions of this section.

(b) By December 31, 2007, the department shall submit to the appropriate committees of the legislature a report analyzing the effectiveness of the activities described in this section in achieving the goals envisioned by the countywide planning policies and the comprehensive plans and development regulations of the counties and cities.

(6) From funds appropriated by the legislature for this purpose, the department shall provide grants to counties, cities, and regional planning organizations required under subsection (7) of this section to conduct the review and perform the evaluation required by this section.

(7) The provisions of this section shall apply to counties, and the cities within those counties, that were greater than one hundred fifty thousand in population in 1995 as determined by office of financial management population estimates and that are located west of the crest of the Cascade mountain range. Any other county planning under RCW 36.70A.040 may carry out the review, evaluation, and amendment programs and procedures as provided in this section."

Senators Pridemore and Swecker spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Pridemore on page 6, line 34 to the committee striking amendment to Engrossed Substitute House Bill No. 1478.

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

MOTION

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

On page 9, line 22 of the amendment, after "(1)" strike "Except as provided in subsection (2) of this section, effective" and insert "Effective"

On page 9, beginning on line 23 of the amendment, after "agencies" strike "and local government subdivisions of the state" and insert "((~~and local government subdivisions of the state~~))"

On page 9, line 30 of the amendment, after "all" strike "cities and counties" and insert "local government subdivisions of the state"

On page 11, line 6 of the amendment, after "(1)" strike "Except as provided in subsection (2) of this section, by" and insert "By"

On page 11, line 8 of the amendment, after "agencies" strike "and local government subdivisions" and insert "((~~and local government subdivisions~~))"

On page 11, line 22 of the amendment, after "how" strike "cities and counties" and insert "local government subdivisions of the state"

Senators Swecker and Pridemore spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Swecker on page 9, line 22 to the committee striking amendment to Engrossed Substitute House Bill No. 1478.

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

MOTION

Senator Nelson moved that the following amendment by Senators Nelson and Pridemore to the committee striking amendment be adopted:

On page 16, after line 19 of the amendment, insert the following:

"**Sec. 10.** RCW 82.14.415 and 2009 c 550 s 1 are each amended to read as follows:

(1) The legislative authority of any city that is located in a county with a population greater than six hundred thousand that annexes an area consistent with its comprehensive plan required by chapter 36.70A RCW((,)) may impose a sales and use tax in accordance with the terms of this chapter. The tax is in addition to other taxes authorized by law and ((~~shall be~~)) is collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the city. The tax may only be imposed by a city if:

(a) The city has commenced annexation of an area having a population of at least ten thousand people, or four thousand in the case of a city described under subsection (3)(a)(i) of this section, prior to January 1, 2015; and

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

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

(3)(a) Except as provided in (b) of this subsection, the maximum rate of tax any city may impose under this section is:

(i) 0.1 percent for each annexed area in which the population is greater than ten thousand and less than twenty thousand. The ten thousand population threshold in this subsection (3)(a)(i) is four thousand for a city with a population between one hundred fifteen thousand and one hundred forty thousand and located within a county with a population over one million five hundred thousand; and

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

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

(4)(a) Except as provided in (b) of this subsection, the maximum cumulative rate of tax a city may impose under subsection (3)(a) of this section is 0.2 percent for the total number of annexed areas the city may annex.

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

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

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

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

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

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

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

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

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

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

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

(11) The resident population of the annexation area must be determined in accordance with chapter 35.13 or 35A.14 RCW.

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

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

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

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

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

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

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

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

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

Senator Nelson 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 Nelson and Pridemore on page 16, after line 19 to the committee striking amendment to Engrossed Substitute House Bill No. 1478.

The motion by Senator Nelson 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 Government Operations, Tribal Relations & Elections as amended to Engrossed Substitute House Bill No. 1478.

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

MOTION

There being no objection, the following title amendments were adopted:

On page 1, line 3 of the title, after "requirements;" strike the remainder of the title and insert "amending RCW 36.70A.215, 43.19.648, 43.325.080, 43.185C.210, 46.68.113, 82.02.070, 82.02.080, 90.46.015, 90.48.260, 90.58.080, and 90.58.090; reenacting and amending RCW 36.70A.130; and creating a new section."

On page 25, line 3 of the title amendment, after "82.02.080," insert "82.14.415,"

MOTION

On motion of Senator Pridemore, the rules were suspended, Engrossed Substitute House Bill No. 1478 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 Pridemore and Swecker 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. 1478 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1478 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1478 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. 1048, by House Committee on State Government & Tribal Affairs (originally sponsored by Representative Hunt)

Making technical corrections needed as a result of the recodification of campaign finance provisions.

The measure was read the second time.

MOTION

On motion of Senator Pridemore, the rules were suspended, Substitute House Bill No. 1048 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pridemore 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. 1048.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1048 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1048, 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, Senators Benton and Roach were excused.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1701, by House Committee on Labor & Workforce Development (originally sponsored by Representatives Ormsby, Green, Sells, Kenney, Van De Wege, Hasegawa, Hudgins, Moeller, Miloscia, Sullivan, Upthegrove, Pettigrew, Seaquist, Hunter and Frockt)

Concerning the misclassification of contractors as independent contractors in the construction industry.

The measure was read the second time.

MOTION

Senator Hargrove moved that the following amendment by Senator Hargrove be adopted:

On page 2, line 21, after "building" insert "at the same time"

WITHDRAWAL OF AMENDMENT

On motion of Senator Hargrove, the amendment by Senator Hargrove on page 2, line 21 to Engrossed Substitute House Bill No. 1701 was withdrawn.

MOTION

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

On page 2, line 27, after "(2)" insert "No more than two independent contractors, as covered by subsection (1) of this section, may be under contract at the same time. It is not a violation of this act, if more than two independent contractors work on or in a single building if proof is provided, both in written contract and in fact, that any independent contractors beyond the first two are not working as independent contractors during the same time period.

(3) The exemptions provided by subsection (2) of this section are broad and in no way exempt independent contractors from industrial insurance coverage under Title 51 RCW. Each and every independent contractor must separately pass the tests provided in RCW 51.08.180 or 51.08.181 to be exempt from coverage under Title 51 RCW."

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

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 Kohl-Welles on page 2, line 27 to Engrossed Substitute House Bill No. 1701.

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

MOTION

Senator Holmquist Newbry moved that the following amendment by Senators Holmquist Newbry, Ericksen, King and Sheldon be adopted:

On page 3, line 12, after "to" insert "contractors with fewer than fifty employees or,"

Senator Holmquist Newbry spoke in favor of adoption of the amendment.

Senator Kohl-Welles spoke against adoption of the amendment.

Senator Holmquist Newby demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

Senators Sheldon, Ericksen, Zarelli, Schoesler, Stevens and King spoke in favor of adoption of the amendment.

Senators Prentice, Conway, Kline and Keiser spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Holmquist Newbry, Erickson, King and Sheldon on page 3, line 12 to Engrossed Substitute House Bill No. 1071.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senators Holmquist Newbry, Ericksen, King and Sheldon and the amendment was adopted by the following vote: Yeas, 25; Nays, 24; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Delvin, Ericksen, Fain, Haugen, Hewitt, Hill, Holmquist Newbry, Honeyford, King, Litzow, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Voting nay: Senators Brown, Conway, Eide, Fraser, Hargrove, Harper, Hatfield, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Tom and White

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Substitute House Bill No. 1701 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles, Hargrove spoke in favor of passage of the bill.

MOTION

On motion of Senator Ericksen, Senator Benton was excused.

Senator Holmquist Newbry spoke against passage of the bill.

POINT OF ORDER

Senator Kohl-Welles: "Mr. President, I believe that the remarks just made are impugning the motives of the proponents of this bill."

REPLY BY THE PRESIDENT

President Owen: "Senator Holmquist Newbry, keep your remarks to the measure not to the individuals motives."

Senators Sheldon, Parlette and King spoke against passage of the bill.

Senators Conway, Chase and Kline spoke in favor of passage 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 by Senator Eide, "Shall the main question be now put?"

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

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1701 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1701 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 25; Nays, 23; Absent, 0; Excused, 1.

Voting yea: Senators Brown, Chase, Conway, Eide, Fraser, Hargrove, Harper, Hatfield, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Tom and White

Voting nay: Senators Baumgartner, Baxter, Becker, Carrell, Delvin, Ericksen, Fain, Haugen, Hewitt, Hill, Holmquist Newbry, Honeyford, King, Litzow, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senator Benton

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1701 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 5:43 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Tuesday, April 5, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate