

SIXTIETH LEGISLATURE - REGULAR SESSION

EIGHTY FIRST DAY

House Chamber, Olympia, Thursday, March 29, 2007

The House was called to order at 9:55 a.m. by the Speaker (Representative Lovick presiding).

Reading of the Journal of the previous day was dispensed with and it was ordered to stand approved.

MESSAGE FROM THE SENATE

March 27, 2007

Mr. Speaker:

The President has signed ENGROSSED HOUSE BILL NO. 1460, and the same is herewith transmitted.

Thomas Hoemann, Secretary

INTRODUCTION & FIRST READING

HB 2398 by Representatives Cody, Sommers, Moeller and Kenney

AN ACT Relating to rebasing direct care, therapy care, support services, and operations component rate allocations under the nursing facility medicaid payment system based upon calendar year 2005 cost report data, excluding costs related to the quality maintenance fee repealed by chapter 241, Laws of 2006; amending RCW 74.46.410, 74.46.431, 74.46.506, and 74.46.511; providing an effective date; and declaring an emergency.

Referred to Committee on Appropriations.

There being no objection, the bill listed on the day's introduction sheet under the fourth order of business were referred to the committees so designated.

REPORTS OF STANDING COMMITTEES

March 27, 2007

SB 5026 Prime Sponsor, Senator Murray: Providing a sales and use tax exemption for recovered wood waste boiler equipment. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Hunter, Chairman; Hasegawa, Vice Chairman; Orcutt, Ranking Minority Member; Condotta,

Assistant Ranking Minority Member; Conway; Ericks; McIntire; Roach and Santos.

Passed to Committee on Rules for second reading.

March 27, 2007

SSB 5039 Prime Sponsor, Senate Committee On Financial Institutions & Insurance: Providing for the state investment board to manage scholarship endowment funds. Reported by Committee on Insurance, Financial Services & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Representatives Kirby, Chairman; Kelley, Vice Chairman; Roach, Ranking Minority Member; Strow, Assistant Ranking Minority Member; Hurst; Rodne; Santos and Simpson.

Passed to Committee on Rules for second reading.

March 27, 2007

SB 5042 Prime Sponsor, Senator Berkey: Regulating the business of insurance. Reported by Committee on Insurance, Financial Services & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Representatives Kirby, Chairman; Kelley, Vice Chairman; Roach, Ranking Minority Member; Strow, Assistant Ranking Minority Member; Hurst; Rodne; Santos and Simpson.

Passed to Committee on Rules for second reading.

March 27, 2007

SSB 5052 Prime Sponsor, Senate Committee On Financial Institutions & Insurance: Prohibiting interested third parties from processing insurance claims. Reported by Committee on Insurance, Financial Services & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Representatives Kirby, Chairman; Kelley, Vice Chairman; Roach, Ranking Minority Member; Strow, Assistant Ranking Minority Member; Hurst; Rodne; Santos and Simpson.

Passed to Committee on Rules for second reading.

March 26, 2007

SSB 5108 Prime Sponsor, Senate Committee On Agriculture & Rural Economic Development: Creating the office of farmland preservation. Reported by Committee on Agriculture & Natural Resources

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. FINDINGS AND PURPOSE. The legislature finds that maintaining the capacity to provide adequate food and fiber resources is essential to the long-term sustainability of the state's citizens and economy. The nation's population has reached three hundred million and will continue to increase for the foreseeable future. Further, the world population is now over six billion and is projected to reach nine billion by the year 2050.

In Washington state, the population is growing by over one million people every decade with much of this growth occurring in western Washington. This growth is increasing the competition for land not only for housing, but also associated retail, commercial, industrial, and leisure industries.

The legislature finds that many once-productive agricultural areas in western Washington have been overtaken and irreversibly converted to nonagricultural uses. Other agricultural areas in the state have diminished to the point that they are dangerously close to losing the land mass necessary to be economically viable. Further, only a limited number of areas in western Washington still retain a sufficient agricultural land base and the necessary agricultural infrastructure to continue to be economically viable both in the short term and the long term.

The legislature recognizes that because this significant decline has largely occurred in less than a half century, it is imperative that mechanisms be established at the state level to focus attention, take the action needed to retain agricultural land, and ensure the opportunity for future generations to farm these lands.

The legislature finds that history shows that previous advanced civilizations in the world were founded on highly productive agricultural lands and food production systems but when the land or its productivity was lost, the civilizations declined. In contrast, other civilizations have existed for millennia because they maintained their agricultural land base, its productivity, and economic conditions sufficient to maintain stewardship of their land.

The legislature finds that there is a finite quantity of high quality agricultural land and that often this agricultural land is mistakenly viewed as an expendable resource. The legislature finds that the retention of agricultural land is desirable, not only to produce food, livestock, and other agricultural products, but also to maintain our state economy and preferable environmental conditions. For these reasons, and because it is essential that agricultural production be sufficient to meet the needs of our growing population, commitment to the retention of agricultural land should be reflected at the state policy level by the creation of an office of farmland preservation to support the retention of farmland and the viability of farming for future generations.

NEW SECTION. Sec. 2. OFFICE OF FARMLAND PRESERVATION--POWERS AND DUTIES. (1) The office of farmland preservation is created and shall be located within the state conservation commission.

(2) Staff support for the office shall be provided by the state conservation commission.

(3) The office of farmland preservation may:

(a) Provide advice and assist the state conservation commission in implementing the provisions of RCW 89.08.530 and 89.08.540, including the merits of leasing or purchasing easements for fixed terms in addition to purchasing easements in perpetuity;

(b) Develop recommendations for the funding level and for the use of the agricultural conservation easements account established in RCW 89.08.540 with the guidance of the farmland preservation task force established under section 3 of this act;

(c) With input from the task force created in section 3 of this act, provide an analysis of the major factors that have led to past declines in the amount and use of agricultural lands in Washington and of the factors that will likely affect retention and economic viability of these lands into the future including, but not limited to, pressures to convert land to nonagricultural uses, loss of processing plants and markets, loss of profitability, productivity, and competitive advantage, urban sprawl, water availability and quality, restrictions on agricultural land use, and conversion to recreational or other uses;

(d) Develop model programs and tools, including innovative economic incentives for landowners, to retain agricultural land for agricultural production, with the guidance from the farmland preservation task force created under section 3 of this act;

(e) Provide technical assistance to localities as they develop and implement programs, mechanisms, and tools to encourage the retention of agricultural lands;

(f) Develop a grant process and an eligibility certification process for localities to receive grants for local programs and tools to retain agricultural lands for agricultural production;

(g) Provide analysis and recommendations as to the continued development and implementation of the farm transition program including, but not limited to, recommending:

(i) Assistance in the preparation of business plans for the transition of business interests;

(ii) Assistance in the facilitation of transfers of existing properties and agricultural operations to interested buyers; and

(iii) Research assistance on agricultural, financial, marketing, and other related transition matters;

(h) Begin the development of a farm transition program to assist in the transition of farmland and related businesses from one generation to the next, aligning the farm transition program closely with the farmland preservation effort to assure complementary functions; and

(i) Serve as a clearinghouse for incentive programs that would consolidate and disseminate information relating to conservation programs that are accessible to landowners and assist owners of agricultural lands to secure financial assistance to implement conservation easements and other projects.

NEW SECTION. Sec. 3. FARMLAND PRESERVATION TASK FORCE. (1) The farmland preservation task force is established with the following voting members:

(a) Six farmer representatives, one from each of six regions delineated by the state conservation commission at least one of whom is a commercial livestock producer, of which at least two representatives shall be under the age of forty-five, appointed by the

governor from persons nominated by recognized agricultural organizations;

(b) A representative of the state conservation commission, appointed by the chair of the state conservation commission;

(c) A representative of the department of agriculture, appointed by the director;

(d) A representative of counties in eastern Washington, appointed by the Washington state association of counties;

(e) A representative of counties in western Washington, appointed by the Washington state association of counties;

(f) Two members of the senate, one from each major political caucus, appointed by the president of the senate;

(g) Two members of the house of representatives, one from each major political caucus, appointed by the speaker of the house of representatives;

(h) A representative of the office of the governor, appointed by the governor; and

(i) A representative of conservation districts, appointed by the state association of conservation districts.

(2) The following persons shall be requested to participate as nonvoting members of the farmland preservation task force:

(a) A representative of the federal natural resources conservation service with knowledge of federal agricultural land retention programs and funding sources, appointed by the state conservationist; and

(b) A person with technical expertise from the department of community, trade, and economic development, appointed by the agency's director.

(3) The task force shall meet at least twice a year. The task force shall be staffed by the state conservation commission. The chair of the task force shall be elected for a term of one year by the voting members of the task force.

(4) Nonlegislative members of the task force are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 by the state conservation commission. Legislative members of the task force are entitled to be reimbursed for travel expenses in accordance with RCW 44.04.120.

(5) This section expires January 1, 2011.

Sec. 4. RCW 89.08.530 and 2002 c 280 s 2 are each amended to read as follows:

(1) The agricultural conservation easements program is created. The state conservation commission shall manage the program and adopt rules as necessary to implement the legislature's intent.

(2) The commission shall report to the legislature on an ongoing basis regarding potential funding sources for the purchase of agricultural conservation easements under the program and recommend changes to existing funding authorized by the legislature.

(3) All funding for the program shall be deposited into the agricultural conservation easements account created in RCW 89.08.540. Expenditures from the account shall be made to local governments and private nonprofits on a match or no match required basis at the discretion of the commission. Moneys in the account may be used to purchase easements in perpetuity or to purchase or lease easements for a fixed term.

(4) Easements purchased with money from the agricultural conservation easements account run with the land.

Sec. 5. RCW 89.08.540 and 2002 c 280 s 3 are each amended to read as follows:

(1) The agricultural conservation easements account is created in the custody of the state treasurer. All receipts from legislative

appropriations, other sources as directed by the legislature, and gifts, grants, or endowments from public or private sources must be deposited into the account. Expenditures from the account may be used only for the purchase of easements in perpetuity or for the purchase or lease of easements for a fixed term under the agricultural conservation easements program. Only the state conservation commission, or the executive director of the commission on the commission's behalf, may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) The commission is authorized to receive and expend gifts, grants, or endowments from public or private sources that are made available, in trust or otherwise, for the use and benefit of the agricultural conservation easements program.

NEW SECTION. Sec. 6. CAPTIONS NOT LAW. Captions used in this act are not any part of the law.

NEW SECTION. Sec. 7. Sections 1 through 3 and 6 of this act constitute a new chapter in Title 89 RCW."

Correct the title.

Signed by Representatives B. Sullivan, Chairman; Blake, Vice Chairman; Kretz, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Dickerson; Eickmeyer; Grant; Hailey; Kagi; Lantz; McCoy; Newhouse; Strow and VanDeWege.

MINORITY recommendation: Do not pass. Signed by Representative Orcutt.

Referred to Committee on Appropriations.

March 27, 2007

2SSB 5122 Prime Sponsor, Senate Committee On Ways & Means: Preserving regulatory assistance provisions. Reported by Committee on State Government & Tribal Affairs

MAJORITY recommendation: Do pass. Signed by Representatives Hunt, Chairman; Appleton, Vice Chairman; Chandler, Ranking Minority Member; Armstrong, Assistant Ranking Minority Member; Green; Kretz; McDermott; Miloscia and Ormsby.

Referred to Committee on Appropriations.

March 27, 2007

SSB 5137 Prime Sponsor, Senate Committee On Labor, Commerce, Research & Development: Modifying industry average unemployment contribution rates. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass. Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Condotta, Ranking Minority Member;

Chandler, Assistant Ranking Minority Member; Crouse; Green; Moeller and Williams.

Passed to Committee on Rules for second reading.

March 27, 2007

SB 5149 Prime Sponsor, Senator Pridemore: Modifying county treasurer administrative provisions. Reported by Committee on Local Government

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 35.61.210 and 1997 c 3 s 205 are each amended to read as follows:

The board of park commissioners may levy or cause to be levied a general tax on all the property located in said park district each year not to exceed fifty cents per thousand dollars of assessed value of the property in such park district. In addition, the board of park commissioners may levy or cause to be levied a general tax on all property located in said park district each year not to exceed twenty-five cents per thousand dollars of assessed valuation. Although park districts are authorized to impose two separate regular property tax levies, the levies shall be considered to be a single levy for purposes of the limitation provided for in chapter 84.55 RCW.

The board is hereby authorized to levy a general tax in excess of its regular property tax levy or levies when authorized so to do at a special election conducted in accordance with and subject to all the requirements of the Constitution and laws of the state now in force or hereafter enacted governing the limitation of tax levies. The board is hereby authorized to call a special election for the purpose of submitting to the qualified voters of the park district a proposition to levy a tax in excess of the seventy-five cents per thousand dollars of assessed value herein specifically authorized. The manner of submitting any such proposition, of certifying the same, and of giving or publishing notice thereof, shall be as provided by law for the submission of propositions by cities or towns.

The board shall include in its general tax levy for each year a sufficient sum to pay the interest on all outstanding bonds and may include a sufficient amount to create a sinking fund for the redemption of all outstanding bonds. The levy shall be certified to the proper county officials for collection the same as other general taxes and when collected, the general tax shall be placed in a separate fund in the office of the county treasurer to be known as the "metropolitan park district fund" and ~~((paid out on warrants))~~ disbursed under RCW 36.29.010(1) and 39.58.750.

Sec. 2. RCW 36.35.020 and 1972 ex.s. c 150 s 2 are each amended to read as follows:

The term "tax title lands" as used in this chapter shall mean any tract of land acquired by the county for lack of other bidders at a tax foreclosure sale. Tax title lands are held in trust for the taxing districts.

Sec. 3. RCW 36.35.100 and 1998 c 106 s 13 are each amended to read as follows:

All property deeded to the county under the provisions of this chapter shall be ~~((stricken from the tax rolls as county property and exempt from taxation and shall not be again assessed or taxed while~~

~~the property of the county))~~ treated as follows during the period the property is so held:

(1) The property shall be:

(a) Stricken from the tax rolls as county property;

(b) Exempt from taxation;

(c) Exempt from special assessments except as provided in chapter 35.49 RCW and RCW 35.44.140 and 79.44.190; and

(d) Exempt from property owner association dues or fees.

(2) The sale, management, and leasing of tax title property shall be handled as under chapter 36.35 RCW.

Sec. 4. RCW 36.89.090 and 1991 c 36 s 1 are each amended to read as follows:

The county shall have a lien for delinquent ~~((service))~~ charges, including interest, penalties, and costs of foreclosure thereon, against any property against which they were levied for ~~((storm water control facilities))~~ the purposes authorized by this chapter, which lien shall be superior to all other liens and encumbrances except general taxes and local and special assessments. Such lien shall be effective upon the charges becoming delinquent and shall be enforced and foreclosed in the same manner as provided for sewerage liens of cities and towns by RCW 35.67.200 through 35.67.290~~((PROVIDED, That))~~. However, a county may, by resolution or ordinance, adopt all or any part of the alternative interest rate, lien, and foreclosure procedures as set forth in RCW 36.89.092 through 36.89.094 or ((by RCW)) 36.94.150, or chapters 84.56, 84.60, and 84.64 RCW.

Sec. 5. RCW 84.56.070 and 1991 c 245 s 19 are each amended to read as follows:

On the fifteenth day of February succeeding the levy of taxes, the county treasurer shall proceed to collect all personal property taxes. The treasurer shall give notice by mail to all persons charged with personal property taxes, and if such taxes are not paid before they become delinquent, the treasurer shall forthwith proceed to collect the same. In the event that he or she is unable to collect the same when due, the treasurer shall prepare papers in distraint, which shall contain a description of the personal property, the amount of taxes, the amount of the accrued interest at the rate provided by law from the date of delinquency, and the name of the owner or reputed owner. The treasurer shall without demand or notice distraint sufficient goods and chattels belonging to the person charged with such taxes to pay the same, with interest at the rate provided by law from the date of delinquency, together with all accruing costs, and shall proceed to advertise the same by posting written notices in three public places in the county in which such property has been distrained, one of which places shall be at the county court house, such notice to state the time when and place where such property will be sold. The county treasurer, or the treasurer's deputy, shall tax the same fees for making the distraint and sale of goods and chattels for the payment of taxes as are allowed by law to sheriffs for making levy and sale of property on execution; traveling fees to be computed from the county seat of the county to the place of making distraint. If the taxes for which such property is distrained, and the interest and costs accruing thereon, are not paid before the date appointed for such sale, which shall be not less than ten days after the taking of such property, such treasurer or treasurer's designee shall proceed to sell such property at public auction, or so much thereof as shall be sufficient to pay such taxes, with interest and costs, and if there be any excess of money arising from the sale of any personal property, the treasurer shall pay such excess less any cost of the auction to the owner of the property so sold or to his or her legal representative: PROVIDED, That whenever it shall become necessary to distraint any standing

timber owned separately from the ownership of the land upon which the same may stand, or any fish trap, pound net, reef net, set net or drag seine fishing location, or any other personal property as the treasurer shall determine to be incapable or reasonably impracticable of manual delivery, it shall be deemed to have been distrained and taken into possession when the treasurer shall have, at least thirty days before the date fixed for the sale thereof, filed with the auditor of the county wherein such property is located a notice in writing reciting that the treasurer has distrained such property, describing it, giving the name of the owner or reputed owner, the amount of the tax due, with interest, and the time and place of sale; a copy of the notice shall also be sent to the owner or reputed owner at his last known address, by registered letter at least thirty days prior to the date of sale: AND PROVIDED FURTHER, That if the county treasurer has reasonable grounds to believe that any personal property, including mobile homes, manufactured homes, or park model trailers, upon which taxes have been levied, but not paid, is about to be removed from the county where the same has been assessed, or is about to be destroyed, sold or disposed of, the county treasurer may demand such taxes, without the notice provided for in this section, and if necessary may forthwith distrain sufficient goods and chattels to pay the same.

Sec. 6. RCW 84.56.090 and 1985 c 83 s 1 are each amended to read as follows:

Whenever in the judgment of the assessor or the county treasurer personal property is being removed or is about to be removed without the limits of the state, or is being dissipated or about to be dissipated, or is being or about to be sold, disposed of, or removed from the county so as to jeopardize collection of taxes, the treasurer shall immediately prepare papers in distraint, which shall contain a description of the personal property, including mobile homes, manufactured homes, or park model trailers, being or about to be removed, dissipated, sold, disposed of, or removed from the county so as to jeopardize collection of taxes, the amount of the tax, the amount of accrued interest at the rate provided by law from the date of delinquency, and the name of the owner or reputed owner, and he shall without demand or notice distrain sufficient goods and chattels belonging to the person charged with such taxes to pay the same with interest at the rate provided by law from the date of delinquency, together with all accruing costs, and shall advertise and sell said property as provided in RCW 84.56.070.

If said personal property is being removed or is about to be removed from the limits of the state, is being dissipated or about to be dissipated, or is being or about to be sold, disposed of, or removed from the county so as to jeopardize collection of taxes, at any time subsequent to the first day of January in any year, and prior to the levy of taxes thereon, the taxes upon such property so distrained shall be computed upon the rate of levy for state, county and local purposes for the preceding year; and all taxes collected in advance of levy under this section and RCW 84.56.120, together with the name of the owner and a brief description of the property assessed shall be entered forthwith by the county treasurer upon the personal property tax rolls of such preceding year, and all collections thereon shall be considered and treated in all respects, and without recourse by either the owner or any taxing unit, as collections for such preceding year. Property on which taxes are thus collected shall thereupon become discharged from the lien of any taxes that may thereafter be levied in the year in which payment or collection is made.

Whenever property has been removed from the county wherein it has been assessed, on which the taxes have not been paid, then the county treasurer, or his deputy, shall have the same power to distrain and sell said property for the satisfaction of said taxes as he would

have if said property were situated in the county in which the property was taxed, and in addition thereto said treasurer, or his deputy, in the distraint and sale of property for the payment of taxes, shall have the same powers as are now by law given to the sheriff in making levy and sale of property on execution.

Sec. 7. RCW 84.64.200 and 1981 c 322 s 6 are each amended to read as follows:

All lots, tracts and parcels of land upon which taxes levied prior to January 9, 1926 remain due and unpaid at the date when such taxes would have become delinquent as provided in the act under which they were levied shall be deemed to be delinquent under the provisions of this title, and the same proceedings may be had to enforce the payment of such unpaid taxes, with interest and costs, and payment enforced and liens foreclosed under and by virtue of the provisions of this chapter. For the purposes of foreclosure under this chapter, the date of delinquency shall be construed to mean the date when the taxes first became delinquent. At all sales of property for which certificates of delinquency are held by the county, if no other bids are received, the county shall be considered a bidder for the full area of each tract or lot to the amount of all taxes, interest and costs due thereon, and where no bidder appears, acquire title ((thereto)) in trust for the taxing districts as absolutely as if purchased by an individual under the provisions of this chapter; all bidders except the county at sales of property for which certificates of delinquency are held by the county shall pay the full amount of taxes, interest and costs for which judgment is rendered, together with all taxes, interest and costs which are delinquent at the time of sale, regardless of whether the taxes, interest, or costs are included in the judgment."

Signed by Representatives Simpson, Chairman; Eddy, Vice Chairman; Curtis, Ranking Minority Member; Schindler, Assistant Ranking Minority Member; Ross; B. Sullivan and Takko.

Passed to Committee on Rules for second reading.

March 26, 2007

ESB 5204 Prime Sponsor, Senator Rasmussen: Enforcing animal health laws. Reported by Committee on Agriculture & Natural Resources

MAJORITY recommendation: Do pass. Signed by Representatives B. Sullivan, Chairman; Blake, Vice Chairman; Kretz, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Dickerson; Eickmeyer; Grant; Hailey; Kagi; Lantz; McCoy; Newhouse; Orcutt; Strow and VanDeWege.

Referred to Committee on Appropriations.

March 26, 2007

SSB 5221 Prime Sponsor, Senate Committee On Human Services & Corrections: Revising provisions relating to the release of offenders. Reported by Committee on Human Services

MAJORITY recommendation: Do pass. Signed by Representatives Dickerson, Chairman; Roberts, Vice

Chairman; Walsh, Assistant Ranking Minority Member; Bailey; Darneille; McCoy and O'Brien.

Referred to Committee on Appropriations.

March 26, 2007

SSB 5243 Prime Sponsor, Senate Committee On Human Services & Corrections: Increasing the length of confinement for a parole violation committed by certain juvenile sex offenders. Reported by Committee on Human Services

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 13.40.210 and 2002 c 175 s 27 are each amended to read as follows:

(1) The secretary shall set a release date for each juvenile committed to its custody. The release date shall be within the prescribed range to which a juvenile has been committed under RCW 13.40.0357 or 13.40.030 except as provided in RCW 13.40.320 concerning offenders the department determines are eligible for the juvenile offender basic training camp program. Such dates shall be determined prior to the expiration of sixty percent of a juvenile's minimum term of confinement included within the prescribed range to which the juvenile has been committed. The secretary shall release any juvenile committed to the custody of the department within four calendar days prior to the juvenile's release date or on the release date set under this chapter. Days spent in the custody of the department shall be tolled by any period of time during which a juvenile has absented himself or herself from the department's supervision without the prior approval of the secretary or the secretary's designee.

(2) The secretary shall monitor the average daily population of the state's juvenile residential facilities. When the secretary concludes that in-residence population of residential facilities exceeds one hundred five percent of the rated bed capacity specified in statute, or in absence of such specification, as specified by the department in rule, the secretary may recommend reductions to the governor. On certification by the governor that the recommended reductions are necessary, the secretary has authority to administratively release a sufficient number of offenders to reduce in-residence population to one hundred percent of rated bed capacity. The secretary shall release those offenders who have served the greatest proportion of their sentence. However, the secretary may deny release in a particular case at the request of an offender, or if the secretary finds that there is no responsible custodian, as determined by the department, to whom to release the offender, or if the release of the offender would pose a clear danger to society. The department shall notify the committing court of the release at the time of release if any such early releases have occurred as a result of excessive in-residence population. In no event shall an offender adjudicated of a violent offense be granted release under the provisions of this subsection.

(3)(a) Following the release of any juvenile under subsection (1) of this section, the secretary may require the juvenile to comply with a program of parole to be administered by the department in his or her community which shall last no longer than eighteen months, except that in the case of a juvenile sentenced for rape in the first or

second degree, rape of a child in the first or second degree, child molestation in the first degree, or indecent liberties with forcible compulsion, the period of parole shall be twenty-four months and, in the discretion of the secretary, may be up to thirty-six months when the secretary finds that an additional period of parole is necessary and appropriate in the interests of public safety or to meet the ongoing needs of the juvenile. A parole program is mandatory for offenders released under subsection (2) of this section. The decision to place an offender on parole shall be based on an assessment by the department of the offender's risk for reoffending upon release. The department shall prioritize available parole resources to provide supervision and services to offenders at moderate to high risk for reoffending.

(b) The secretary shall, for the period of parole, facilitate the juvenile's reintegration into his or her community and to further this goal shall require the juvenile to refrain from possessing a firearm or using a deadly weapon and refrain from committing new offenses and may require the juvenile to: (i) Undergo available medical, psychiatric, drug and alcohol, sex offender, mental health, and other offense-related treatment services; (ii) report as directed to a parole officer and/or designee; (iii) pursue a course of study, vocational training, or employment; (iv) notify the parole officer of the current address where he or she resides; (v) be present at a particular address during specified hours; (vi) remain within prescribed geographical boundaries; (vii) submit to electronic monitoring; (viii) refrain from using illegal drugs and alcohol, and submit to random urinalysis when requested by the assigned parole officer; (ix) refrain from contact with specific individuals or a specified class of individuals; (x) meet other conditions determined by the parole officer to further enhance the juvenile's reintegration into the community; (xi) pay any court-ordered fines or restitution; and (xii) perform community restitution. Community restitution for the purpose of this section means compulsory service, without compensation, performed for the benefit of the community by the offender. Community restitution may be performed through public or private organizations or through work crews.

(c) The secretary may further require up to twenty-five percent of the highest risk juvenile offenders who are placed on parole to participate in an intensive supervision program. Offenders participating in an intensive supervision program shall be required to comply with all terms and conditions listed in (b) of this subsection and shall also be required to comply with the following additional terms and conditions: (i) Obey all laws and refrain from any conduct that threatens public safety; (ii) report at least once a week to an assigned community case manager; and (iii) meet all other requirements imposed by the community case manager related to participating in the intensive supervision program. As a part of the intensive supervision program, the secretary may require day reporting.

(d) After termination of the parole period, the juvenile shall be discharged from the department's supervision.

(4)(a) The department may also modify parole for violation thereof. If, after affording a juvenile all of the due process rights to which he or she would be entitled if the juvenile were an adult, the secretary finds that a juvenile has violated a condition of his or her parole, the secretary shall order one of the following which is reasonably likely to effectuate the purpose of the parole and to protect the public: (i) Continued supervision under the same conditions previously imposed; (ii) intensified supervision with increased reporting requirements; (iii) additional conditions of supervision authorized by this chapter; (iv) except as provided in (a)(v) and (vi) of this subsection, imposition of a period of confinement not to

exceed thirty days in a facility operated by or pursuant to a contract with the state of Washington or any city or county for a portion of each day or for a certain number of days each week with the balance of the days or weeks spent under supervision; (v) the secretary may order any of the conditions or may return the offender to confinement for the remainder of the sentence range if the offense for which the offender was sentenced is rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, indecent liberties with forcible compulsion, or a sex offense that is also a serious violent offense as defined by RCW 9.94A.030; and (vi) the secretary may order any of the conditions or may return the offender to confinement for the remainder of the sentence range if the youth has completed the basic training camp program as described in RCW 13.40.320.

(b) The secretary may modify parole and order any of the conditions or may return the offender to confinement for up to twenty-four weeks if the offender was sentenced for a sex offense as defined under RCW 9A.44.130 and is known to have violated the terms of parole. Confinement beyond thirty days is intended to only be used for a small and limited number of sex offenders. It shall only be used when other graduated sanctions or interventions have not been effective or the behavior is so egregious it warrants the use of the higher level intervention and the violation: (i) Is a known pattern of behavior consistent with a previous sex offense that puts the youth at high risk for reoffending sexually; (ii) consists of sexual behavior that is determined to be predatory as defined in RCW 71.09.020; or (iii) requires a review under chapter 71.09 RCW, due to a recent overt act. The total number of days of confinement for violations of parole conditions during the parole period shall not exceed the number of days provided by the maximum sentence imposed by the disposition for the underlying offense pursuant to RCW 13.40.0357. The department shall not aggregate multiple parole violations that occur prior to the parole revocation hearing and impose consecutive twenty-four week periods of confinement for each parole violation. The department is authorized to engage in rule making pursuant to chapter 34.05 RCW, to implement this subsection, including narrowly defining the behaviors that could lead to this higher level intervention.

(c) If the department finds that any juvenile in a program of parole has possessed a firearm or used a deadly weapon during the program of parole, the department shall modify the parole under (a) of this subsection and confine the juvenile for at least thirty days. Confinement shall be in a facility operated by or pursuant to a contract with the state or any county.

(5) A parole officer of the department of social and health services shall have the power to arrest a juvenile under his or her supervision on the same grounds as a law enforcement officer would be authorized to arrest the person.

(6) If so requested and approved under chapter 13.06 RCW, the secretary shall permit a county or group of counties to perform functions under subsections (3) through (5) of this section.

NEW SECTION. Sec. 2. This act applies prospectively only and not retroactively. It applies only to juvenile offenders who have been adjudicated for an offense that occurred on or after the effective date of this act.

NEW SECTION. Sec. 3. This act takes effect October 1, 2007."

Correct the title.

Signed by Representatives Dickerson, Chairman; Roberts, Vice Chairman; Walsh, Assistant Ranking Minority Member; Bailey; Darneille; McCoy and O'Brien.

Passed to Committee on Rules for second reading.

March 27, 2007

ESB 5251 Prime Sponsor, Senator Kohl-Welles: Establishing the term of existence of a collective bargaining agreement. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass. Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Crouse; Green; Moeller and Williams.

MINORITY recommendation: Do not pass. Signed by Representatives Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member.

Passed to Committee on Rules for second reading.

March 27, 2007

SB 5258 Prime Sponsor, Senator Regala: Concerning members of the Washington council for the prevention of child abuse and neglect. Reported by Committee on Early Learning & Children's Services

MAJORITY recommendation: Do pass. Signed by Representatives Kagi, Chairman; Haler, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Appleton; Hinkle; Pettigrew and Roberts.

Passed to Committee on Rules for second reading.

March 27, 2007

ESSB 5267 Prime Sponsor, Senate Committee On Early Learning & K-12 Education: Providing for the use of the school district capital projects funds for technology. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 13.40.210 and 2002 c 175 s 27 are each amended to read as follows:

(1) The secretary shall set a release date for each juvenile committed to its custody. The release date shall be within the prescribed range to which a juvenile has been committed under RCW 13.40.0357 or 13.40.030 except as provided in RCW 13.40.320 concerning offenders the department determines are eligible for the juvenile offender basic training camp program. Such dates shall be determined prior to the expiration of sixty percent of a juvenile's

minimum term of confinement included within the prescribed range to which the juvenile has been committed. The secretary shall release any juvenile committed to the custody of the department within four calendar days prior to the juvenile's release date or on the release date set under this chapter. Days spent in the custody of the department shall be tolled by any period of time during which a juvenile has absented himself or herself from the department's supervision without the prior approval of the secretary or the secretary's designee.

(2) The secretary shall monitor the average daily population of the state's juvenile residential facilities. When the secretary concludes that in-residence population of residential facilities exceeds one hundred five percent of the rated bed capacity specified in statute, or in absence of such specification, as specified by the department in rule, the secretary may recommend reductions to the governor. On certification by the governor that the recommended reductions are necessary, the secretary has authority to administratively release a sufficient number of offenders to reduce in-residence population to one hundred percent of rated bed capacity. The secretary shall release those offenders who have served the greatest proportion of their sentence. However, the secretary may deny release in a particular case at the request of an offender, or if the secretary finds that there is no responsible custodian, as determined by the department, to whom to release the offender, or if the release of the offender would pose a clear danger to society. The department shall notify the committing court of the release at the time of release if any such early releases have occurred as a result of excessive in-residence population. In no event shall an offender adjudicated of a violent offense be granted release under the provisions of this subsection.

(3)(a) Following the release of any juvenile under subsection (1) of this section, the secretary may require the juvenile to comply with a program of parole to be administered by the department in his or her community which shall last no longer than eighteen months, except that in the case of a juvenile sentenced for rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, or indecent liberties with forcible compulsion, the period of parole shall be twenty-four months and, in the discretion of the secretary, may be up to thirty-six months when the secretary finds that an additional period of parole is necessary and appropriate in the interests of public safety or to meet the ongoing needs of the juvenile. A parole program is mandatory for offenders released under subsection (2) of this section. The decision to place an offender on parole shall be based on an assessment by the department of the offender's risk for reoffending upon release. The department shall prioritize available parole resources to provide supervision and services to offenders at moderate to high risk for reoffending.

(b) The secretary shall, for the period of parole, facilitate the juvenile's reintegration into his or her community and to further this goal shall require the juvenile to refrain from possessing a firearm or using a deadly weapon and refrain from committing new offenses and may require the juvenile to: (i) Undergo available medical, psychiatric, drug and alcohol, sex offender, mental health, and other offense-related treatment services; (ii) report as directed to a parole officer and/or designee; (iii) pursue a course of study, vocational training, or employment; (iv) notify the parole officer of the current address where he or she resides; (v) be present at a particular address during specified hours; (vi) remain within prescribed geographical boundaries; (vii) submit to electronic monitoring; (viii) refrain from using illegal drugs and alcohol, and submit to random urinalysis when requested by the assigned parole officer; (ix) refrain from contact with specific individuals or a specified class of individuals;

(x) meet other conditions determined by the parole officer to further enhance the juvenile's reintegration into the community; (xi) pay any court-ordered fines or restitution; and (xii) perform community restitution. Community restitution for the purpose of this section means compulsory service, without compensation, performed for the benefit of the community by the offender. Community restitution may be performed through public or private organizations or through work crews.

(c) The secretary may further require up to twenty-five percent of the highest risk juvenile offenders who are placed on parole to participate in an intensive supervision program. Offenders participating in an intensive supervision program shall be required to comply with all terms and conditions listed in (b) of this subsection and shall also be required to comply with the following additional terms and conditions: (i) Obey all laws and refrain from any conduct that threatens public safety; (ii) report at least once a week to an assigned community case manager; and (iii) meet all other requirements imposed by the community case manager related to participating in the intensive supervision program. As a part of the intensive supervision program, the secretary may require day reporting.

(d) After termination of the parole period, the juvenile shall be discharged from the department's supervision.

(4)(a) The department may also modify parole for violation thereof. If, after affording a juvenile all of the due process rights to which he or she would be entitled if the juvenile were an adult, the secretary finds that a juvenile has violated a condition of his or her parole, the secretary shall order one of the following which is reasonably likely to effectuate the purpose of the parole and to protect the public: (i) Continued supervision under the same conditions previously imposed; (ii) intensified supervision with increased reporting requirements; (iii) additional conditions of supervision authorized by this chapter; (iv) except as provided in (a)(v) and (vi) of this subsection, imposition of a period of confinement not to exceed thirty days in a facility operated by or pursuant to a contract with the state of Washington or any city or county for a portion of each day or for a certain number of days each week with the balance of the days or weeks spent under supervision; (v) the secretary may order any of the conditions or may return the offender to confinement for the remainder of the sentence range if the offense for which the offender was sentenced is rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, indecent liberties with forcible compulsion, or a sex offense that is also a serious violent offense as defined by RCW 9.94A.030; and (vi) the secretary may order any of the conditions or may return the offender to confinement for the remainder of the sentence range if the youth has completed the basic training camp program as described in RCW 13.40.320.

(b) The secretary may modify parole and order any of the conditions or may return the offender to confinement for up to twenty-four weeks if the offender was sentenced for a sex offense as defined under RCW 9A.44.130 and is known to have violated the terms of parole. Confinement beyond thirty days is intended to only be used for a small and limited number of sex offenders. It shall only be used when other graduated sanctions or interventions have not been effective or the behavior is so egregious it warrants the use of the higher level intervention and the violation: (i) Is a known pattern of behavior consistent with a previous sex offense that puts the youth at high risk for reoffending sexually; (ii) consists of sexual behavior that is determined to be predatory as defined in RCW 71.09.020; or (iii) requires a review under chapter 71.09 RCW, due to a recent overt act. The total number of days of confinement for violations of

parole conditions during the parole period shall not exceed the number of days provided by the maximum sentence imposed by the disposition for the underlying offense pursuant to RCW 13.40.0357. The department shall not aggregate multiple parole violations that occur prior to the parole revocation hearing and impose consecutive twenty-four week periods of confinement for each parole violation. The department is authorized to engage in rule making pursuant to chapter 34.05 RCW, to implement this subsection, including narrowly defining the behaviors that could lead to this higher level intervention.

(c) If the department finds that any juvenile in a program of parole has possessed a firearm or used a deadly weapon during the program of parole, the department shall modify the parole under (a) of this subsection and confine the juvenile for at least thirty days. Confinement shall be in a facility operated by or pursuant to a contract with the state or any county.

(5) A parole officer of the department of social and health services shall have the power to arrest a juvenile under his or her supervision on the same grounds as a law enforcement officer would be authorized to arrest the person.

(6) If so requested and approved under chapter 13.06 RCW, the secretary shall permit a county or group of counties to perform functions under subsections (3) through (5) of this section.

NEW SECTION. Sec. 2. This act applies prospectively only and not retroactively. It applies only to juvenile offenders who have been adjudicated for an offense that occurred on or after the effective date of this act.

NEW SECTION. Sec. 3. This act takes effect October 1, 2007."

Correct the title.

Signed by Representatives Quall, Chairman; Barlow, Vice Chairman; Haigh; McDermott; Roach; Santos and P. Sullivan.

MINORITY recommendation: Do not pass. Signed by Representatives Priest, Ranking Minority Member; Anderson, Assistant Ranking Minority Member.

Referred to Committee on Capital Budget.

March 26, 2007

ESB 5401 Prime Sponsor, Senator Rasmussen: Licensing Christmas tree growers. Reported by Committee on Agriculture & Natural Resources

MAJORITY recommendation: Do pass. Signed by Representatives B. Sullivan, Chairman; Blake, Vice Chairman; Kretz, Ranking Minority Member; Dickerson; Eickmeyer; Grant; Hailey; Kagi; Lantz; McCoy; Newhouse; Orcutt; Strow and VanDeWege.

MINORITY recommendation: Do not pass. Signed by Representative Warnick, Assistant Ranking Minority Member,

Passed to Committee on Rules for second reading.

March 26, 2007

ESSB 5403 Prime Sponsor, Senate Committee On Agriculture & Rural Economic Development: Certifying animal massage practitioners. Reported by Committee on Agriculture & Natural Resources

MAJORITY recommendation: Do pass. Signed by Representatives B. Sullivan, Chairman; Blake, Vice Chairman; Kretz, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Dickerson; Eickmeyer; Grant; Hailey; Kagi; Lantz; McCoy; Newhouse; Orcutt; Strow and VanDeWege.

Referred to Committee on Appropriations.

March 26, 2007

SB 5429 Prime Sponsor, Senator Franklin: Concerning deductions from moneys received by an inmate. Reported by Committee on Human Services

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 72.09.480 and 2003 c 271 s 3 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 ~~((7))~~ (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 public safety and education account for the purpose of crime victims' compensation;

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

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

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

~~(e) Fifteen)~~ (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.

(3) When an inmate, except as provided in subsection ~~((7))~~ (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) 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.

~~((5))~~ (6) The deductions required under subsection (2) of this section shall not apply to funds received by the department on behalf of an offender for payment of one fee-based education or vocational program that is associated with an inmate's work program or a placement decision made by the department under RCW 72.09.460 to prepare an inmate for work upon release.

An inmate may, prior to the completion of the fee-based education or vocational program authorized under this subsection, apply to a person designated by the secretary for permission to make a change in his or her program. The secretary, or his or her designee, may approve the application based solely on the following criteria: (a) The inmate has been transferred to another institution by the department for reasons unrelated to education or a change to a higher security classification and the offender's current program is unavailable in the offender's new placement; (b) the inmate entered an academic program as an undeclared major and wishes to declare a major. No inmate may apply for more than one change to his or her major and receive the exemption from deductions specified in this subsection; (c) the educational or vocational institution is terminating the inmate's current program; or (d) the offender's training or education has demonstrated that the current program is not the appropriate program to assist the offender to achieve a placement decision made by the department under RCW 72.09.460 to prepare the inmate for work upon release.

~~((6))~~ (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.

~~((7))~~ (8) When an inmate sentenced to life imprisonment without possibility of release or parole, or to death under chapter 10.95 RCW, receives any funds in addition to his or her gratuities, except settlements or awards resulting from legal action, the additional funds shall be subject to: Deductions of five percent to the public safety and education account for the purpose of crime victims' compensation, twenty percent to the department to contribute to the cost of incarceration, and fifteen percent to child support payments.

~~((8))~~ (9) When an inmate sentenced to life imprisonment without possibility of release or parole, or to death under chapter 10.95 RCW, receives any funds from a settlement or award resulting from a legal action in addition to his or her gratuities, the additional funds shall be subject to: Deductions of five percent to the public

safety and education account for the purpose of crime victims' compensation and twenty percent to the department to contribute to the cost of incarceration.

~~((9))~~ (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.

~~((10))~~ (11) 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 including, but not limited to, the collection of moneys received by the inmate from settlements or awards resulting from legal action."

Signed by Representatives Dickerson, Chairman; Roberts, Vice Chairman; Walsh, Assistant Ranking Minority Member; Bailey; Darneille; McCoy and O'Brien.

Passed to Committee on Rules for second reading.

March 27, 2007

SSB 5443 Prime Sponsor, Senate Committee On Labor, Commerce, Research & Development: Suppressing workers' compensation claims. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass. Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Green; Moeller and Williams.

MINORITY recommendation: Do not pass. Signed by Representatives Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member.

Passed to Committee on Rules for second reading.

March 27, 2007

SSB 5461 Prime Sponsor, Senate Committee On Natural Resources, Ocean & Recreation: Improving forest health on state trust lands by continuing the use of contract harvesting for silvicultural treatments. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Cody; Conway; Darneille; Dunn; Ericks; Fromhold; Grant; Haigh; Hinkle; Hunt; Hunter; Kagi; Kenney; Kessler; Kretz; Linville; McDermott; McDonald; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist; P. Sullivan and Walsh.

Passed to Committee on Rules for second reading.

March 27, 2007

SSB 5463 Prime Sponsor, Senate Committee On Natural Resources, Ocean & Recreation: Modifying forest fire protection assessments. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Cody; Conway; Darneille; Dunn; Ericks; Fromhold; Grant; Haigh; Hinkle; Hunt; Hunter; Kagi; Kenney; Kessler; Kretz; Linville; McDermott; McDonald; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist; P. Sullivan and Walsh.

Passed to Committee on Rules for second reading.

March 26, 2007

2SSB 5467 Prime Sponsor, Senate Committee On Ways & Means: Creating the individual and family services program for people with developmental disabilities. Reported by Committee on Human Services

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

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

(a) A developmental disability is a natural part of human life, and the presence of a developmental disability in the life of a person does not diminish the person's rights or opportunity to participate fully in the life of the local community;

(b) Investing in family members who have children and adults living in the family home preserves a valuable natural support system for the individual with a developmental disability and is also cost-effective for the state of Washington;

(c) Providing support services to families can help maintain the well-being of the family and stabilize the family unit.

(2) It is the intent of the legislature:

(a) To partner with families as care providers for children with developmental disabilities and adults who choose to live in the family home;

(b) That individual and family services be centered on the needs of the person with a developmental disability and the family;

(c) That, to the maximum extent possible, individuals and families must be given choice of services and exercise control over the resources available to them.

NEW SECTION. Sec. 2. A new section is added to chapter 71A.12 RCW to read as follows:

(1) The individual and family services program for individuals eligible to receive services under this title is established. This program replaces family support opportunities, traditional family support, and the flexible family support pilot program. The department shall transfer funding associated with these existing family support programs to the individual and family services program and shall operate the program within available funding. The

services provided under the individual and family services program shall be funded by state funding without benefit of federal match.

(2) The department shall adopt rules to implement this section. The rules shall provide:

(a) That eligibility to receive services in the individual and family services program be determined solely by an assessment of individual need;

(b) For service priority levels to be developed that specify a maximum amount of dollars for each person per level per year;

(c) That the dollar caps for each service priority level be adjusted by the vendor rate increases authorized by the legislature; and

(d) That the following services be available under the program:

(i) Respite care;

(ii) Therapies;

(iii) Architectural and vehicular modifications;

(iv) Equipment and supplies;

(v) Specialized nutrition and clothing;

(vi) Excess medical costs not covered by another source;

(vii) Copays for medical and therapeutic services;

(viii) Transportation;

(ix) Training;

(x) Counseling;

(xi) Behavior management;

(xii) Parent/sibling education;

(xiii) Recreational opportunities; and

(xiv) Community services grants.

(3) In addition to services provided for the service priority levels under subsections (1) and (2) of this section, the department shall provide for:

(a) One-time exceptional needs and emergency needs for individuals and families not receiving individual and family services annual grants to assist individuals and families who experience a short-term crisis; and

(b) Respite services based on the department's assessment for a parent who provides personal care in the home to his or her adult son or daughter with developmental disabilities.

(4) If a person has more complex needs, a family is experiencing a more prolonged crisis, or it is determined a person needs additional services, the department shall assess the individual to determine if placement in a waiver program would be appropriate.

NEW SECTION. Sec. 3. This act may be known and cited as the Lance Morehouse, Jr. memorial individual and family services act.

NEW SECTION. Sec. 4. Nothing in this act shall be construed to create an entitlement to services or to create judicial authority to order the provision of services to any person or family if the services are unavailable or unsuitable, the child or family is not eligible for such services, or sufficient funding has not been appropriated for this program."

Signed by Representatives Dickerson, Chairman; Roberts, Vice Chairman; Walsh, Assistant Ranking Minority Member; Bailey; Darneille; McCoy and O'Brien.

Referred to Committee on Appropriations.

March 27, 2007

SB 5468 Prime Sponsor, Senator Oemig: Regarding the administration of tax programs administered by the department of revenue. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Hunter, Chairman; Hasegawa, Vice Chairman; Orcutt, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Conway; Ericks; McIntire; Roach and Santos.

Passed to Committee on Rules for second reading.

March 27, 2007

ESB 5508 Prime Sponsor, Senator Kilmer: Providing for economic development project permitting. Reported by Committee on State Government & Tribal Affairs

MAJORITY recommendation: Do pass. Signed by Representatives Hunt, Chairman; Appleton, Vice Chairman; Chandler, Ranking Minority Member; Armstrong, Assistant Ranking Minority Member; Green; Kretz; McDermott; Miloscia and Ormsby.

Referred to Committee on Appropriations.

March 27, 2007

ESB 5513 Prime Sponsor, Senator Kilmer: Establishing a state government efficiency hotline. Reported by Committee on State Government & Tribal Affairs

MAJORITY recommendation: Do pass. Signed by Representatives Hunt, Chairman; Appleton, Vice Chairman; Chandler, Ranking Minority Member; Armstrong, Assistant Ranking Minority Member; Green; Kretz; McDermott; Miloscia and Ormsby.

Passed to Committee on Rules for second reading.

March 28, 2007

SB 5526 Prime Sponsor, Senator Hargrove: Modifying the definition of criminal act. Reported by Committee on Public Safety & Emergency Preparedness

MAJORITY recommendation: Do pass. Signed by Representatives O'Brien, Chairman; Hurst, Vice Chairman; Pearson, Ranking Minority Member; Ross, Assistant Ranking Minority Member; Ahern; Goodman and Lovick.

Passed to Committee on Rules for second reading.

March 27, 2007

SSB 5534 Prime Sponsor, Senate Committee On Labor, Commerce, Research & Development: Creating an exemption from unemployment compensation for certain small performing arts industries. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 50.04 RCW to read as follows:

The term "employment" shall not include services performed by a person who is participating in a performance sponsored by an employer whose North American industry classification system code is within "711110," "711120," "711130," or "712110," so long as the person receives no remuneration other than a nominal stipend and the employer does not have more than three individuals in its employ during any portion of a day during the calendar year.

For purposes of this section, "stipend" means a fixed sum of money paid periodically to defray expenses. The stipend is presumed to defray the person's incidental expenses involved in participating in the performance, including, but not limited to, meals, transportation, lodging, costumes, supplies, and child care."

Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse; Green; Moeller and Williams.

Passed to Committee on Rules for second reading.

March 27, 2007

SSB 5560 Prime Sponsor, Senate Committee On Ways & Means: Making changes of a technical nature to tax laws. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Hunter, Chairman; Hasegawa, Vice Chairman; Orcutt, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Conway; Ericks; McIntire; Roach and Santos.

Passed to Committee on Rules for second reading.

March 27, 2007

SB 5607 Prime Sponsor, Senator Pridemore: Modifying provisions regarding the leasehold excise taxation of historical property owned by the United States government. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Hunter, Chairman; Hasegawa, Vice Chairman; Orcutt, Ranking Minority Member; Condotta,

Assistant Ranking Minority Member; Conway; Ericks; McIntire; Roach and Santos.

Passed to Committee on Rules for second reading.

March 27, 2007

E2SSB 5627 Prime Sponsor, Senate Committee On Ways & Means: Requiring a review and development of basic education funding. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The state's definition of basic education and the corresponding funding formulas must be regularly updated in order to keep pace with evolving educational practices and increasing state and federal requirements and to ensure that all schools have the resources they need to help give all students the opportunity to be fully prepared to compete in a global economy. The work of the Washington learns steering committee and the K-12 advisory committee provides a valuable starting point from which to evaluate the current educational system and develop a unique, transparent, and stable educational funding system for Washington that supports the goals and the vision of a world-class learner-focused K-12 educational system that were established in the final Washington learns report.

This act establishes a joint select committee of the legislature to address the details necessary to develop new comprehensive K-12 finance formulas that will provide Washington schools with stable and adequate funding as the expectations for the K-12 system continue to evolve.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.150 RCW to read as follows:

(1) The joint select committee on basic education finance is established, with members as provided in this subsection.

(a) The president of the senate shall appoint four members from each of the two largest caucuses of the senate and shall designate one member to serve as cochair.

(b) The speaker of the house of representatives shall appoint four members from each of the two largest caucuses of the house of representatives and shall designate one member to serve as cochair.

(2) To address specific tasks in the committee work plan, the joint select committee may convene ad hoc work groups that include representatives of state education agencies and organizations, school district staff, business and community members, and others. The ad hoc work groups shall report to the joint select committee.

(3) Staff support for the joint select committee shall be provided by the senate committee services and the house office of program research, with assistance as requested from the legislative evaluation and accountability program, the office of financial management, the office of the superintendent of public instruction, and the Washington state institute for public policy.

(4) Members of the joint select committee shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Members of ad hoc work groups are not entitled to expense reimbursement.

(5) The joint select committee shall expire on January 1, 2009.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.150 RCW to read as follows:

(1) The purpose of the joint select committee established under section 2 of this act is to review the definition of basic education and all current basic education funding formulas and recommend for consideration by the full legislature, options for a new funding structure and all necessary formulas, along with a new definition of basic education, that is realigned with the new expectations of the state's education system as established in the November 2006 final report of the Washington learns steering committee and the basic education provisions established in this chapter.

(2) The joint select committee shall first develop a work plan that identifies, in an ordered sequence, the aspects of the funding structure and funding formulas to be addressed by the committee and includes reporting timelines. At a minimum, the committee shall present a progress report by December 1, 2007, and a final report by December 1, 2008, to the education and fiscal committees of the senate and the house of representatives. The reports shall contain the joint select committee's recommended options for the funding structure and funding formulas addressed under the work plan during the previous year. The joint select committee may revise the work plan as necessary.

(3) For each funding formula addressed, at least one of the options recommended by the joint select committee must be a redirection and prioritization within existing resources based on research-proven education programs. The options must also include projections of the expected effect of the investment made under any new funding structure.

(4) In developing its recommendations, the joint select committee shall review and build upon the following:

(a) Reports related to K-12 finance produced at the request of or as a result of the Washington learns study, including reports completed for or by the K-12 advisory committee;

(b) High-quality studies that are available; and

(c) Research and evaluation of the cost benefits of various K-12 programs and services developed by the Washington state institute for public policy as directed by the legislature in section 607(15), chapter 372, Laws of 2006.

NEW SECTION. Sec. 4. A new section is added to chapter 28A.150 RCW to read as follows:

(1) The options developed by the joint select committee under section 3 of this act shall take into consideration the legislative priorities in this section, to the maximum extent possible and as appropriate to each formula.

(2) Funding structures should reflect the most effective instructional strategies and service delivery models and be based on research-proven education programs and activities with demonstrated cost benefits. In reviewing possible strategies and models the joint select committee shall, at a minimum, consider the following issues:

(a) Professional development for all staff;

(b) Whether the compensation system for instructional staff shall include pay for performance, knowledge, and skills elements; regional cost-of-living factors; elements to recognize assignments that are difficult; recognition for the professional teaching level certificate in the salary allocation model; and a plan to implement the pay structure;

(c) Voluntary all-day kindergarten;

(d) Optimum class size, including different class sizes based on grade level and ways to reduce class size;

(e) Focused instructional support for students and schools;

(f) Extended school day and school year options; and

(g) Health and safety requirements.

(3) The recommendations should provide maximum transparency of the state's educational funding system to assist parents, citizens, and school personnel in Washington in understanding how their school system is funded.

(4) Funding structures should be linked to accountability for student outcomes and performance.

(5) The joint select committee shall also consider:

(a) The role of the K-12 education system in building a world-class, seamless P-20 education system for Washington;

(b) Providing students with an opportunity to acquire mathematics and science skills to meet international standards;

(c) Creating personalized learning opportunities for students; and

(d) Emphasizing student outcomes.

NEW SECTION. **Sec. 5.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

Signed by Representatives Quall, Chairman; Barlow, Vice Chairman; Priest, Ranking Minority Member; Haigh; McDermott; Roach; Santos and P. Sullivan.

MINORITY recommendation: Do not pass. Signed by Representative Anderson, Assistant Ranking Minority Member.

Referred to Committee on Appropriations.

March 27, 2007

SSB 5688 Prime Sponsor, Senate Committee On Labor, Commerce, Research & Development: Modifying who may receive industrial insurance claimants' notices, orders, or warrants. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass. Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse; Green; Moeller and Williams.

Passed to Committee on Rules for second reading.

March 28, 2007

SB 5773 Prime Sponsor, Senator Hargrove: Modifying treatment records provisions. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chairman; Morrell, Vice Chairman; Hinkle, Ranking Minority Member; Alexander, Assistant Ranking Minority Member; Barlow; Campbell;

Condotta; Curtis; Green; Moeller; Pedersen; Schual-Berke and Seaquist.

Passed to Committee on Rules for second reading.

March 27, 2007

SB 5775 Prime Sponsor, Senator Kauffman: Changing special education provisions. Reported by Committee on Education

MAJORITY recommendation: Do pass. Signed by Representatives Quall, Chairman; Barlow, Vice Chairman; Priest, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Haigh; McDermott; Roach; Santos and P. Sullivan.

Passed to Committee on Rules for second reading.

March 27, 2007

2SSB 5790 Prime Sponsor, Senate Committee On Ways & Means: Regarding skill centers. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

On page 2, line 12, after "up to" strike "one and four-tenths" and insert "two"

Signed by Representatives Quall, Chairman; Barlow, Vice Chairman; Priest, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Haigh; McDermott; Roach; Santos and P. Sullivan.

Referred to Committee on Appropriations.

March 27, 2007

SSB 5826 Prime Sponsor, Senate Committee On Financial Institutions & Insurance: Modifying consumer credit report provisions. Reported by Committee on Insurance, Financial Services & Consumer Protection

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 19.182.170 and 2005 c 342 s 1 are each amended to read as follows:

(1) A ~~(victim of identity theft who has submitted a valid police report to a consumer reporting agency)~~ consumer, who is a resident of this state, may elect to place a security freeze on his or her credit report by making a request in writing by certified mail to a consumer reporting agency. "Security freeze" means a ~~(notice placed in a consumer's credit report, at the request of the consumer and subject to certain exceptions, that prohibits the consumer reporting agency from releasing the consumer's credit report or any information from~~

~~it without the express authorization of the consumer~~) prohibition, consistent with this section, on a consumer reporting agency's furnishing of a consumer's credit report to a third party intending to use the credit report to determine the consumer's eligibility for credit. If a security freeze is in place, information from a consumer's credit report may not be released to a third party without prior express authorization from the consumer. This subsection does not prevent a consumer reporting agency from advising a third party that a security freeze is in effect with respect to the consumer's credit report.

(2) For purposes of this section and RCW 19.182.180 through 19.182.210~~(-a)~~:

~~(a) "Victim of identity theft" means~~(:

~~(a) A victim of identity theft as defined in RCW 9.35.020; or~~

~~(b) A person who has been notified by an agency, person, or business that owns or licenses computerized data of a breach in a computerized data system which has resulted in the acquisition of that person's unencrypted personal information by an unauthorized person or entity~~) a person who has a police report evidencing their claim to be a victim of a violation of RCW 9.35.020 and which report will be produced to a consumer reporting agency, upon such consumer reporting agency's request.

(b) "Credit report" means a consumer report, as defined in 15 U.S.C. Sec. 1681a, that is used or collected to serve as a factor in establishing a consumer's eligibility for credit for personal, family, or household purposes.

(c) "Normal business hours" means Sunday through Saturday, between the hours of 6:00 a.m. and 9:30 p.m. Pacific Time.

(3) A consumer reporting agency shall place a security freeze on a consumer's credit report no later than five business days after receiving a written request from the consumer and payment of the fee required by the consumer reporting agency under subsection (13) of this section.

(4) The consumer reporting agency shall send a written confirmation of the security freeze to the consumer within ten business days and shall provide the consumer with a unique personal identification number or password to be used by the consumer when providing authorization for the release of his or her credit report for a specific party or period of time.

(5) If the consumer wishes to allow his or her credit report to be accessed for a specific ~~(party or)~~ period of time while a freeze is in place, he or she shall contact the consumer reporting agency, request that the freeze be temporarily lifted, and provide the following:

(a) Proper identification, which means that information generally deemed sufficient to identify a person. Only if the consumer is unable to sufficiently identify himself or herself, may a consumer reporting agency require additional information concerning the consumer's employment and personal or family history in order to verify his or her identity;

(b) The unique personal identification number or password provided by the ~~(credit) consumer~~ reporting agency under subsection (4) of this section; ~~(and)~~

(c) The proper information regarding ~~(the third party who is to receive the credit report or)~~ the time period for which the report is available to users of the credit report; and

~~(d) Payment of the fee required by the consumer reporting agency under subsection (13) of this section.~~

(6) A consumer reporting agency that receives a request from a consumer to temporarily lift a freeze on a credit report under subsection (5) of this section~~(-)~~ shall comply with the request ~~(no later than)~~ within:

~~(a) Three business days (after) of receiving the request by mail; or~~

~~(b) Fifteen minutes of receiving the request from the consumer through the electronic contact method chosen by the consumer reporting agency in accordance with subsection (8) of this section, if the request:~~

~~(i) Is received during normal business hours; and~~

~~(ii) Includes the consumer's proper identification and correct personal identification number or password.~~

~~(7) A consumer reporting agency is not required to remove a security freeze within the time provided in subsection (6)(b) of this section if:~~

~~(a) The consumer fails to meet the requirements of subsection (5) of this section; or~~

~~(b) The consumer reporting agency's ability to remove the security freeze within fifteen minutes is prevented by:~~

~~(i) An act of God, including fire, earthquakes, hurricanes, storms, or similar natural disasters or phenomena;~~

~~(ii) Unauthorized or illegal acts by a third party, including terrorism, sabotage, riot, vandalism, labor strikes, or disputes disrupting operations, or similar occurrences;~~

~~(iii) An interruption in operations, including electrical failure, unanticipated delay in equipment or replacement part delivery, computer hardware or software failures inhibiting response time, or similar disruptions;~~

~~(iv) Governmental action, including emergency orders or regulations, judicial or law enforcement action, or similar directives;~~

~~(v) Regularly scheduled maintenance of, or updates to, the consumer reporting agency's systems outside of normal business hours;~~

~~(vi) Commercially reasonable maintenance of, or repair to, the consumer reporting agency's systems that is unexpected or unscheduled; or~~

~~(vii) Receipt of a removal request outside of normal business hours.~~

~~(8) A consumer reporting agency may develop procedures involving the use of telephone, fax, the internet, or other electronic media to receive and process a request from a consumer to temporarily lift a freeze on a credit report under subsection (5) of this section in an expedited manner.~~

~~((8)) (9) A consumer reporting agency shall remove or temporarily lift a freeze placed on a consumer's credit report only in the following cases:~~

~~(a) Upon consumer request, under subsection (5) or ((11)) (12) of this section; or~~

~~(b) When the consumer's credit report was frozen due to a material misrepresentation of fact by the consumer. When a consumer reporting agency intends to remove a freeze upon a consumer's credit report under this subsection, the consumer reporting agency shall notify the consumer in writing prior to removing the freeze on the consumer's credit report.~~

~~((9)) (10) When a third party requests access to a consumer credit report on which a security freeze is in effect, and this request is in connection with an application for credit or any other use, and the consumer does not allow his or her credit report to be accessed for that ~~(specific party or)~~ period of time, the third party may treat the application as incomplete.~~

~~((10)) (11) When a consumer requests a security freeze, the consumer reporting agency shall disclose the process of placing and temporarily lifting a freeze, and the process for allowing access to information from the consumer's credit report for a specific ~~(party or)~~ period of time while the freeze is in place.~~

~~((11)) (12) A security freeze remains in place until the consumer requests that the security freeze be removed. A consumer~~

reporting agency shall remove a security freeze within three business days of receiving a request for removal from the consumer, who provides ~~((both))~~ all of the following:

(a) Proper identification, as defined in subsection (5)(a) of this section; ~~((and))~~

(b) The unique personal identification number or password provided by the consumer reporting agency under subsection (4) of this section; and

(c) Payment of the fee required by the consumer reporting agency under subsection (13) of this section.

~~((+2))~~ (13)(a) Except as provided in (b) of this subsection, a consumer reporting agency may charge a fee of no more than ten dollars to a consumer for placement of each freeze, temporary lift of the freeze, or removal of the freeze.

(b) A consumer reporting agency may not charge a fee to place a security freeze for a victim of identity theft or for a consumer, who is sixty-five years old or older.

(14) This section does not apply to the use of a consumer credit report by any of the following:

(a) A person or entity, or a subsidiary, affiliate, or agent of that person or entity, or an assignee of a financial obligation owing by the consumer to that person or entity, or a prospective assignee of a financial obligation owing by the consumer to that person or entity in conjunction with the proposed purchase of the financial obligation, with which the consumer has or had prior to assignment an account or contract, including a demand deposit account, or to whom the consumer issued a negotiable instrument, for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract, or negotiable instrument. For purposes of this subsection, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements;

~~((A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted under subsection (5) of this section for purposes of facilitating the extension of credit or other permissible use;~~

~~((c))~~ Any federal, state, or local entity, including a law enforcement agency, court, or their agents or assigns;

~~((d) A private collection agency))~~ (c) Any person acting under a court order, warrant, or subpoena;

~~((e))~~ (d) A child support agency acting under Title IV-D of the social security act (42 U.S.C. et seq.);

~~((f))~~ (e) The department of social and health services acting to fulfill any of its statutory responsibilities;

~~((g))~~ (f) The internal revenue service acting to investigate or collect delinquent taxes or unpaid court orders or to fulfill any of its other statutory responsibilities;

~~((h))~~ (g) The use of credit information for the purposes of prescreening as provided for by the federal fair credit reporting act;

~~((i))~~ (h) Any person or entity administering a credit file monitoring subscription service to which the consumer has subscribed; ~~((and~~

~~((j))~~ (i) Any person or entity for the purpose of providing a consumer with a copy of his or her credit report upon the consumer's request; and

(j) A mortgage broker or loan originator required to be licensed under chapter 19.146 RCW.

(15) Liability may not result to the consumer reporting agency if through inadvertence or mistake the consumer reporting agency releases credit report information to a person or entity purporting to be a mortgage broker or loan originator under subsection (14) of this section that is, in fact, not a mortgage broker or loan originator.

(16) The consumer's request for a security freeze does not prohibit the consumer reporting agency from disclosing the consumer's credit report for other than credit-related purposes.

(17) A violation of subsection (6) of this section does not provide a private cause of action under RCW 19.86.090. A violation of subsection (6) of this section shall be enforced exclusively by the attorney general. A violation of subsection (6) of this section is subject to all other remedies and penalties available under this chapter.

NEW SECTION. Sec. 2. This act takes effect September 1, 2008."

Signed by Representatives Kirby, Chairman; Kelley, Vice Chairman; Roach, Ranking Minority Member; Strow, Assistant Ranking Minority Member; Hurst; Rodne; Santos and Simpson.

Passed to Committee on Rules for second reading.

March 27, 2007

ESSB 5894 Prime Sponsor, Senate Committee On Water, Energy & Telecommunications: Clarifying the regulatory authority for on-site sewage systems. Reported by Committee on Select Committee on Environmental Health

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"PART 1
CREATING A NEW CHAPTER DEDICATED TO LARGE
ON-SITE SEWAGE SYSTEMS**

NEW SECTION. Sec. 1. FINDINGS AND INTENT. The legislature finds that:

(1) Protection of the environment and public health requires properly designed, operated, and maintained on-site sewage systems. Failure of those systems can pose certain health and environmental hazards if sewage leaks above ground or if untreated sewage reaches surface or groundwater.

(2) Chapter 70.118A RCW provides a framework for ongoing management of on-site sewage systems located in marine recovery areas and regulated by local health jurisdictions under state board of health rules. This chapter will provide a framework for comprehensive management of large on-site sewage systems statewide.

(3) The primary purpose of this chapter is to establish, in a single state agency, comprehensive regulation of the design, operation, and maintenance of large on-site sewage systems, and their operators, that provides both public health and environmental protection. To accomplish these purposes, this chapter provides for:

(a) The permitting and continuing oversight of large on-site sewage systems;

(b) The establishment by the department of standards and rules for the siting, design, construction, installation, operation, maintenance, and repair of large on-site sewage systems; and

(c) The enforcement by the department of the standards and rules established under this chapter.

NEW SECTION. Sec. 5. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the state department of health.

(2) "Industrial wastewater" means the water or liquid carried waste from an industrial process. These wastes may result from any process or activity of industry, manufacture, trade, or business, from the development of any natural resource, or from animal operations such as feedlots, poultry houses, or dairies. The term includes contaminated storm water and leachate from solid waste facilities.

(3) "Large on-site sewage system" means an on-site sewage system with design flows of between three thousand five hundred gallons per day and one hundred thousand gallons per day.

(4) "On-site sewage system" means an integrated system of components, located on or nearby the property it serves, that conveys, stores, treats, and provides subsurface soil treatment and disposal of domestic sewage. It consists of a collection system, a treatment component or treatment sequence, and a subsurface soil disposal component. It may or may not include a mechanical treatment system. An on-site sewage system also refers to a holding tank sewage system or other system that does not have a soil dispersal component. A holding tank that discharges to a sewer is not included in the definition of on-site sewage system. A system into which storm water or industrial wastewater is discharged is not included in the definition of on-site sewage system.

(5) "Person" means any individual, corporation, company, association, firm, partnership, governmental agency, or any other entity whatsoever, and the authorized agents of any such entities.

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

(7) "Waters of the state" has the same meaning as defined in RCW 90.48.020.

NEW SECTION. Sec. 3. AUTHORIZING THE DEPARTMENT TO PROVIDE COMPREHENSIVE REGULATION OF LARGE ON-SITE SEWAGE SYSTEMS. (1) For the protection of human health and the environment the department shall:

(a) Establish and provide for the comprehensive regulation of large on-site sewage systems including, but not limited to, system siting, design, construction, installation, operation, maintenance, and repair;

(b) Control and prevent pollution of streams, lakes, rivers, ponds, inland waters, salt waters, water courses, and other surface and underground waters of the state of Washington, except to the extent authorized by permits issued under this chapter;

(c) Issue annual operating permits for large on-site sewage systems based on the system's ability to function properly in compliance with the applicable comprehensive regulatory requirements; and

(d) Enforce the large on-site sewage system requirements.

(2) Large on-site sewage systems permitted by the department may not be used for treatment and disposal of industrial wastewater or combined sanitary sewer and storm water systems.

(3) The work group convened under RCW 70.118A.080(4) to make recommendations to the appropriate committees of the legislature for the development of certification or licensing of maintenance specialists shall include recommendations for the development of certification or licensing of large on-site system operators.

NEW SECTION. Sec. 4. ANNUAL OPERATING PERMITS REQUIRED--APPLICATION. (1) A person may not install or operate a large on-site sewage system without an operating permit as provided in this chapter after July 1, 2009. The owner of the system is responsible for obtaining a permit.

(2) The department shall issue operating permits in accordance with the rules adopted under section 5 of this act.

(3) The department shall ensure the system meets all applicable siting, design, construction, and installation requirements prior to issuing an initial operating permit. Prior to renewing an operating permit, the department may review the performance of the system to determine compliance with rules and any permit conditions.

(4) At the time of initial permit application or at the time of permit renewal the department shall impose those permit conditions, requirements for system improvements, and compliance schedules as it determines are reasonable and necessary to ensure that the system will be operated and maintained properly. Each application must be accompanied by a fee as established in rules adopted by the department.

(5) Operating permits shall be issued for a term of one year, and shall be renewed annually, unless the operator fails to apply for a new permit or the department finds good cause to deny the application for renewal.

(6) Each permit may be issued only for the site and owner named in the application. Permits are not transferable or assignable except with the written approval of the department.

(7) The department may deny an application for a permit or modify, suspend, or revoke a permit in any case in which it finds that the permit was obtained by fraud or there is or has been a failure, refusal, or inability to comply with the requirements of this chapter or the standards or rules adopted under this chapter. RCW 43.70.115 governs notice of denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding to the permit applicant or permittee.

(8) For systems with design flows of more than fourteen thousand five hundred gallons per day, the department shall adopt rules to ensure adequate public notice and opportunity for review and comment on initial large on-site sewage system permit applications and subsequent permit applications to increase the volume of waste disposal or change effluent characteristics. The rules must include provisions for notice of final decisions. Methods for providing notice may include electronic mail, posting on the department's internet site, publication in a local newspaper, press releases, mailings, or other means of notification the department determines appropriate.

(9) A person aggrieved by the issuance of an initial permit, or by the issuance of a subsequent permit to increase the volume of waste disposal or to change effluent characteristics, for systems with design flows of more than fourteen thousand five hundred gallons per day, has the right to an adjudicative proceeding. The application for an adjudicative proceeding must be in writing, state the basis for contesting the action, include a copy of the decision, be served on and received by the department within twenty-eight days of receipt of notice of the final decision, and be served in a manner that shows proof of receipt. An adjudicative proceeding conducted under this subsection is governed by chapter 34.05 RCW.

(10) Any permit issued by the department of ecology for a large on-site sewage system under chapter 90.48 RCW is valid until it first expires after the effective date of this section. The system owner shall apply for an operating permit at least one hundred twenty days prior to expiration of the department of ecology permit.

(11) Systems required to meet operator certification requirements under chapter 70.95B RCW must continue to meet those requirements as a condition of the department operating permit.

NEW SECTION. Sec. 5. RULE MAKING. (1) For the protection of human health and the environment, the secretary shall adopt rules for the comprehensive regulation of large on-site sewage systems, which includes, but is not limited to, the siting, design, construction, installation, maintenance, repair, and permitting of the systems.

(2) In adopting the rules, the secretary shall, in consultation with the department of ecology, require that large on-site sewage systems comply with the applicable sections of chapter 90.48 RCW regarding control and prevention of pollution of waters of the state, including but not limited to:

(a) Surface and ground water standards established under RCW 90.48.035; and

(b) Those provisions requiring all known, available, and reasonable methods of treatment.

(3) In adopting the rules, the secretary shall ensure that requirements for large on-site sewage systems are consistent with the requirements of any comprehensive plans or development regulations adopted under chapter 36.70A RCW or any other applicable comprehensive plan, land use plan, or development regulation adopted by a city, town, or county.

NEW SECTION. Sec. 6. CIVIL PENALTIES. (1) A person who violates a law or rule regulating on-site sewage systems administered by the department is subject to a penalty of not more than ten thousand dollars per day for every violation. Every violation is a separate and distinct offense. In case of a continuing violation, each day's continuing violation is a separate and distinct violation. The penalty assessed must reflect the significance of the violation and the previous record of compliance on the part of the person responsible for compliance with on-site sewage system requirements.

(2) Every person who, through an act of commission or omission, procures, aids, or abets a violation is considered to have violated the provisions of this section and is subject to the penalty provided in this section.

(3) The penalty provided for in this section must be imposed by a notice in writing to the person against whom the civil penalty is assessed and must describe the violation. The notice must be personally served in the manner of service of a summons in a civil action or in a manner that shows proof of receipt. A penalty imposed by this section is due twenty-eight days after receipt of notice unless application for an adjudicative proceeding is filed as provided in subsection (4) of this section.

(4) Within twenty-eight days after notice is received, the person incurring the penalty may file an application for an adjudicative proceeding and may pursue subsequent review as provided in chapter 34.05 RCW and applicable rules.

(5) A penalty imposed by a final administrative order is due upon service of the final administrative order. A person who fails to pay a penalty assessed by a final administrative order within thirty days of service of the final administrative order shall pay, in addition to the amount of the penalty, interest at the rate of one percent of the unpaid balance of the assessed penalty for each month or part of a month that the penalty remains unpaid, commencing with the month in which the notice of penalty was served, and reasonable attorneys' fees as are incurred if civil enforcement of the final administrative order is required to collect the penalty.

(6) A person who institutes proceedings for judicial review of a final administrative order assessing a civil penalty under this chapter shall place the full amount of the penalty in an interest-bearing account in the registry of the reviewing court. At the conclusion of the proceeding the court shall, as appropriate, enter a judgment on behalf of the department and order that the judgment be satisfied to the extent possible from moneys paid into the registry of the court or shall enter a judgment in favor of the person appealing the penalty assessment and order return of the moneys paid into the registry of the court together with accrued interest to the person appealing. The judgment may award reasonable attorneys' fees for the cost of the attorney general's office in representing the department.

(7) If no appeal is taken from a final administrative order assessing a civil penalty under this chapter, the department may file a certified copy of the final administrative order with the clerk of the superior court in which the on-site sewage system is located or in Thurston county, and the clerk shall enter judgment in the name of the department and in the amount of the penalty assessed in the final administrative order.

(8) A judgment entered under subsection (6) or (7) of this section has the same force and effect as, and is subject to all of the provisions of law relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court in which it is entered.

(9) The large on-site sewage systems account is created in the custody of the state treasurer. All receipts from penalties imposed under this section shall be deposited into the account. Expenditures from the account shall be used by the department to provide training and technical assistance to on-site sewage system owners and operators. Only the secretary or the secretary's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. Sec. 7. INJUNCTIONS. Notwithstanding the existence or use of any other remedy, the department may bring an action to enjoin a violation or threatened violation of this chapter or rules adopted under this chapter. The department may bring the action in the superior court of the county in which the large on-site sewage system is located or in the superior court of Thurston county.

NEW SECTION. Sec. 8. The authority and duties created in this chapter are in addition to any authority and duties already provided in law. Nothing in this chapter limits the powers of the state or any political subdivision to exercise such authority.

PART 2

AMENDING CHAPTERS 70.118 AND 70.05 RCW TO ENHANCE LOCAL HEALTH OFFICER ENFORCEMENT AUTHORITY REGARDING ON-SITE SYSTEMS

NEW SECTION. Sec. 9. A new section is added to chapter 70.118 RCW to read as follows:

CIVIL PENALTIES. A local health officer who is responsible for administering and enforcing regulations regarding on-site sewage disposal systems is authorized to issue civil penalties for violations of those regulations under the same limitations and requirements imposed on the department under section 6 of this act, except that judgments shall be entered in the name of the local health jurisdiction and penalties shall be placed into the general fund or funds of the entity or entities operating the local health jurisdiction.

Sec. 10. RCW 70.05.070 and 1999 c 391 s 5 are each amended to read as follows:

The local health officer, acting under the direction of the local board of health or under direction of the administrative officer appointed under RCW 70.05.040 or 70.05.035, if any, shall:

(1) Enforce the public health statutes of the state, rules of the state board of health and the secretary of health, and all local health rules, regulations and ordinances within his or her jurisdiction including imposition of penalties authorized under RCW 70.119A.030 and section 9 of this act, the confidentiality provisions in RCW 70.24.105 and rules adopted to implement those provisions, and filing of actions authorized by RCW 43.70.190;

(2) Take such action as is necessary to maintain health and sanitation supervision over the territory within his or her jurisdiction;

(3) Control and prevent the spread of any dangerous, contagious or infectious diseases that may occur within his or her jurisdiction;

(4) Inform the public as to the causes, nature, and prevention of disease and disability and the preservation, promotion and improvement of health within his or her jurisdiction;

(5) Prevent, control or abate nuisances which are detrimental to the public health;

(6) Attend all conferences called by the secretary of health or his or her authorized representative;

(7) Collect such fees as are established by the state board of health or the local board of health for the issuance or renewal of licenses or permits or such other fees as may be authorized by law or by the rules of the state board of health;

(8) Inspect, as necessary, expansion or modification of existing public water systems, and the construction of new public water systems, to assure that the expansion, modification, or construction conforms to system design and plans;

(9) Take such measures as he or she deems necessary in order to promote the public health, to participate in the establishment of health educational or training activities, and to authorize the attendance of employees of the local health department or individuals engaged in community health programs related to or part of the programs of the local health department.

PART 3

AMENDING STATE BOARD OF HEALTH RULE-MAKING AUTHORITY FOR ON-SITE SEWAGE SYSTEMS

Sec. 11. RCW 43.20.050 and 1993 c 492 s 489 are each amended to read as follows:

(1) The state board of health shall provide a forum for the development of public health policy in Washington state. It is authorized to recommend to the secretary means for obtaining appropriate citizen and professional involvement in all public health policy formulation and other matters related to the powers and duties of the department. It is further empowered to hold hearings and explore ways to improve the health status of the citizenry.

(a) At least every five years, the state board shall convene regional forums to gather citizen input on public health issues.

(b) Every two years, in coordination with the development of the state biennial budget, the state board shall prepare the state public health report that outlines the health priorities of the ensuing biennium. The report shall:

(i) Consider the citizen input gathered at the forums;

(ii) Be developed with the assistance of local health departments;

(iii) Be based on the best available information collected and reviewed according to RCW 43.70.050 and recommendations from the council;

(iv) Be developed with the input of state health care agencies. At least the following directors of state agencies shall provide timely recommendations to the state board on suggested health priorities for the ensuing biennium: The secretary of social and health services, the health care authority administrator, the insurance commissioner, the superintendent of public instruction, the director of labor and industries, the director of ecology, and the director of agriculture;

(v) Be used by state health care agency administrators in preparing proposed agency budgets and executive request legislation;

(vi) Be submitted by the state board to the governor by January 1st of each even-numbered year for adoption by the governor. The governor, no later than March 1st of that year, shall approve, modify, or disapprove the state public health report.

(c) In fulfilling its responsibilities under this subsection, the state board may create ad hoc committees or other such committees of limited duration as necessary.

(2) In order to protect public health, the state board of health shall:

(a) Adopt rules necessary to assure safe and reliable public drinking water and to protect the public health. Such rules shall establish requirements regarding:

(i) The design and construction of public water system facilities, including proper sizing of pipes and storage for the number and type of customers;

(ii) Drinking water quality standards, monitoring requirements, and laboratory certification requirements;

(iii) Public water system management and reporting requirements;

(iv) Public water system planning and emergency response requirements;

(v) Public water system operation and maintenance requirements;

(vi) Water quality, reliability, and management of existing but inadequate public water systems; and

(vii) Quality standards for the source or supply, or both source and supply, of water for bottled water plants.

(b) Adopt rules and standards for prevention, control, and abatement of health hazards and nuisances related to the disposal of wastes, solid and liquid, including but not limited to sewage, garbage, refuse, and other environmental contaminants; adopt standards and procedures governing the design, construction, and operation of sewage, garbage, refuse and other solid waste collection, treatment, and disposal facilities;

(c) Adopt rules controlling public health related to environmental conditions including but not limited to heating, lighting, ventilation, sanitary facilities, cleanliness and space in all types of public facilities including but not limited to food service establishments, schools, institutions, recreational facilities and transient accommodations and in places of work;

(d) Adopt rules for the imposition and use of isolation and quarantine;

(e) Adopt rules for the prevention and control of infectious and noninfectious diseases, including food and vector borne illness, and rules governing the receipt and conveyance of remains of deceased persons, and such other sanitary matters as admit of and may best be controlled by universal rule; and

(f) Adopt rules for accessing existing data bases for the purposes of performing health related research.

(3) The state board shall adopt rules for the design, construction, installation, operation, and maintenance of those on-site sewage systems with design flows of less than three thousand five hundred gallons per day.

(4) The state board may delegate any of its rule-adopting authority to the secretary and rescind such delegated authority.

~~((4))~~ (5) All local boards of health, health authorities and officials, officers of state institutions, police officers, sheriffs, constables, and all other officers and employees of the state, or any county, city, or township thereof, shall enforce all rules adopted by the state board of health. In the event of failure or refusal on the part of any member of such boards or any other official or person mentioned in this section to so act, he or she shall be subject to a fine of not less than fifty dollars, upon first conviction, and not less than one hundred dollars upon second conviction.

~~((5))~~ (6) The state board may advise the secretary on health policy issues pertaining to the department of health and the state.

PART 4

EXEMPTING OPERATORS CERTIFIED BY THE DEPARTMENT OF HEALTH

Sec. 12. RCW 90.48.162 and 1972 ex.s. c 140 s 1 are each amended to read as follows:

Any county or any municipal or public corporation operating or proposing to operate a sewerage system, including any system which collects only domestic sewerage, which results in the disposal of waste material into the waters of the state shall procure a permit from the department of ecology before so disposing of such materials. This section is intended to extend the permit system of RCW 90.48.160 to counties and municipal or public corporations and the provisions of RCW 90.48.170 through ~~((90.48.210))~~ 90.48.200 and 90.52.040 shall be applicable to the permit requirement imposed under this section. A permit under this chapter is not required for large on-site sewage systems permitted by the department of health under chapter 70.-- RCW (sections 1 through 8 of this act) or for on-site sewage systems permitted by local health jurisdictions under rules of the state board of health.

Sec. 13. RCW 90.48.110 and 2002 c 161 s 5 are each amended to read as follows:

(1) Except under subsection (2) of this section, all engineering reports, plans, and specifications for the construction of new sewerage systems, sewage treatment or disposal plants or systems, or for improvements or extensions to existing sewerage systems or sewage treatment or disposal plants, and the proposed method of future operation and maintenance of said facility or facilities, shall be submitted to and be approved by the department, before construction thereof may begin. No approval shall be given until the department is satisfied that said plans and specifications and the methods of operation and maintenance submitted are adequate to protect the quality of the state's waters as provided for in this chapter. Approval under this chapter is not required for large on-site sewage systems permitted by the department of health under chapter 70.-- RCW (sections 1 through 8 of this act) or for on-site sewage systems regulated by local health jurisdictions under rules of the state board of health.

(2) To promote efficiency in service delivery and intergovernmental cooperation in protecting the quality of the state's waters, the department may delegate the authority for review and approval of engineering reports, plans, and specifications for the construction of new sewerage systems, sewage treatment or disposal

plants or systems, or for improvements or extensions to existing sewerage system or sewage treatment or disposal plants, and the proposed method of future operations and maintenance of said facility or facilities and industrial pretreatment systems, to local units of government requesting such delegation and meeting criteria established by the department.

(3) For any new or revised general sewer plan submitted for review under this section, the department shall review and either approve, conditionally approve, reject, or request amendments within ninety days of the receipt of the submission of the plan. The department may extend this ninety-day time limitation for new submittals by up to an additional ninety days if insufficient time exists to adequately review the general sewer plan. For rejections of plans or extensions of the timeline, the department shall provide in writing to the local government entity the reason for such action. In addition, the governing body of the local government entity and the department may mutually agree to an extension of the deadlines contained in this section.

PART 5

AMENDING RCW 36.94.010 TO CLARIFY ITS APPLICABILITY TO LARGE ON-SITE SEWAGE SYSTEMS

Sec. 14. RCW 36.94.010 and 1997 c 447 s 10 are each amended to read as follows:

As used in this chapter:

(1) A "system of sewerage" means and may include any or all of the following:

(a) Sanitary sewage collection, treatment, and/or disposal facilities and services, including without limitation on-site or off-site sanitary sewerage facilities, large on-site sewage systems defined under section 2 of this act, inspection services and maintenance services for private or public on-site systems, or any other means of sewage treatment and disposal approved by the county;

(b) Combined sanitary sewage disposal and storm or surface water drains and facilities;

(c) Storm or surface water drains, channels, and facilities;

(d) Outfalls for storm drainage or sanitary sewage and works, plants, and facilities for storm drainage or sanitary sewage treatment and disposal, and rights and interests in property relating to the system;

(e) Combined water and sewerage systems;

(f) Point and nonpoint water pollution monitoring programs that are directly related to the sewerage facilities and programs operated by a county;

(g) Public restroom and sanitary facilities;

(h) The facilities and services authorized in RCW 36.94.020; and

(i) Any combination of or part of any or all of such facilities.

(2) A "system of water" means and includes:

(a) A water distribution system, including dams, reservoirs, aqueducts, plants, pumping stations, transmission and lateral distribution lines and other facilities for distribution of water;

(b) A combined water and sewerage system;

(c) Any combination of or any part of any or all of such facilities.

(3) A "sewerage and/or water general plan" means a general plan for a system of sewerage and/or water for the county which shall be an element of the comprehensive plan established by the county pursuant to RCW 36.70.350(6) and/or chapter 35.63 RCW, if there is such a comprehensive plan.

(a) A sewerage general plan shall include the general location and description of treatment and disposal facilities, trunk and interceptor sewers, pumping stations, monitoring and control facilities, channels, local service areas and a general description of the collection system to serve those areas, a description of on-site sanitary sewerage system inspection services and maintenance services, and other facilities and services as may be required to provide a functional and implementable plan, including preliminary engineering to assure feasibility. The plan may also include a description of the regulations deemed appropriate to carrying out surface drainage plans.

(b) A water general plan shall include the general location and description of water resources to be utilized, wells, treatment facilities, transmission lines, storage reservoirs, pumping stations, and monitoring and control facilities as may be required to provide a functional and implementable plan.

(c) Water and/or sewerage general plans shall include preliminary engineering in adequate detail to assure technical feasibility and, to the extent then known, shall further discuss the methods of distributing the cost and expense of the system and shall indicate the economic feasibility of plan implementation. The plans may also specify local or lateral facilities and services. The sewerage and/or water general plan does not mean the final engineering construction or financing plans for the system.

(4) "Municipal corporation" means and includes any city, town, metropolitan municipal corporation, any public utility district which operates and maintains a sewer or water system, any sewer, water, diking, or drainage district, any diking, drainage, and sewerage improvement district, and any irrigation district.

(5) A "private utility" means and includes all utilities, both public and private, which provide sewerage and/or water service and which are not municipal corporations within the definition of this chapter. The ownership of a private utility may be in a corporation, nonprofit or for profit, in a cooperative association, in a mutual organization, or in individuals.

(6) "Board" means one or more boards of county commissioners and/or the legislative authority of a home rule charter county.

NEW SECTION. Sec. 15. Sections 1 through 8 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 16. Captions and part headings used in this act are not any part of the law."

On page 1, line 2 of the title, after "systems;" strike the remainder of the title and insert "amending RCW 70.05.070, 43.20.050, 90.48.162, 90.48.110, and 36.94.010; adding new sections to chapter 70.118 RCW; adding a new chapter to Title 70 RCW; creating a new section; and prescribing penalties."

Signed by Representatives Campbell, Chairman; Hudgins, Vice Chairman; Chase; Hunt; Morrell and Wood.

MINORITY recommendation: Do not pass. Signed by Representatives Newhouse, Ranking Minority Member; Sump, Assistant Ranking Minority Member; Hailey.

Referred to Committee on Appropriations.

March 27, 2007

SB 5902 Prime Sponsor, Senator Prentice: Requiring additional state liquor stores to engage in Sunday sales. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass as amended.

On page 3, line 11, after "assist the" strike "superior"

Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Green; Moeller and Williams.

MINORITY recommendation: Do not pass. Signed by Representatives Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member.

Referred to Committee on Appropriations.

March 27, 2007

SSB 5919 Prime Sponsor, Senate Committee On Financial Institutions & Insurance: Providing relief from retaliatory taxes on insurance premium taxes. Reported by Committee on Insurance, Financial Services & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Representatives Kirby, Chairman; Kelley, Vice Chairman; Roach, Ranking Minority Member; Strow, Assistant Ranking Minority Member; Hurst; Rodne; Santos and Simpson.

Referred to Committee on Finance.

March 27, 2007

ESSB 5920 Prime Sponsor, Senate Committee On Labor, Commerce, Research & Development: Establishing a pilot program for vocational rehabilitation services. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass. Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Green; Moeller and Williams.

MINORITY recommendation: Do not pass. Signed by Representatives Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse.

Passed to Committee on Rules for second reading.

March 28, 2007

E2SSB 5930 Prime Sponsor, Senate Committee On Ways & Means: Providing high quality, affordable health care to Washingtonians based on the recommendations of the blue ribbon commission on health care costs and access.

Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"USE STATE PURCHASING TO IMPROVE HEALTH CARE QUALITY

NEW SECTION. Sec. 1. (1) The health care authority and the department of social and health services shall, by September 1, 2007, develop a five-year plan to change reimbursement within their health care programs to:

- (a) Reward quality health outcomes rather than simply paying for the receipt of particular services or procedures;
- (b) Pay for care that reflects patient preference and is of proven value;
- (c) Require the use of evidence-based standards of care where available;
- (d) Tie provider rate increases to measurable improvements in access to quality care;
- (e) Direct enrollees to quality care systems;
- (f) Better support primary care and provide a medical home to all enrollees through reimbursement policies that create incentives for providers to enter and remain in primary care practice and that address disparities in payment between specialty procedures and primary care services; and
- (g) Pay for e-mail consultations, telemedicine, and telehealth where doing so reduces the overall cost of care.

(2) In developing any component of the plan that links payment to health care provider performance, the authority and the department shall work in collaboration with the department of health, health carriers, local public health jurisdictions, physicians and other health care providers, the Puget Sound health alliance, and other purchasers.

(3) The plan shall (a) identify any existing barriers and opportunities to support implementation, including needed changes to state or federal law; (b) identify the goals the plan is intended to achieve and how progress toward those goals will be measured; and (c) be submitted to the governor and the legislature upon completion. The agencies shall report to the legislature by September 1, 2007. Any component of the plan that links payment to health care provider performance must be submitted to the legislature for consideration prior to implementation by the department or the authority.

NEW SECTION. Sec. 2. A new section is added to chapter 41.05 RCW to read as follows:

(1) The legislature finds that there is growing evidence that, for preference-sensitive care involving elective surgery, patient-practitioner communication is improved through the use of high-quality decision aids that detail the benefits, harms, and uncertainty of available treatment options. Improved communication leads to more fully informed patient decisions. The legislature intends to increase the extent to which patients make genuinely informed, preference-based treatment decisions, by promoting public/private collaborative efforts to broaden the development, certification, use, and evaluation of effective decision aids and by recognition of shared decision making and patient decision aids in the state's laws on informed consent.

(2) The health care authority shall:

(a) Work in collaboration with the health professions, contracting health carriers, nonproprietary public interest or university-based research groups, and quality improvement organizations to increase awareness of appropriate, high-quality decision aids, and to train physicians and other practitioners in their use.

(b) In consultation with the national committee for quality assurance, identify a certification process for patient decision aids.

(c) Implement a shared decision-making demonstration project. The demonstration project shall be conducted at one or more multispecialty group practice sites providing state purchased health care in the state of Washington, and may include other practice sites providing state purchased health care. The demonstration project shall include the following elements:

(i) Incorporation into clinical practice of one or more decision aids for one or more identified preference-sensitive care areas combined with ongoing training and support of involved practitioners and practice teams, preferably at sites with necessary supportive health information technology; and

(ii) An evaluation of the impact of the use of shared decision making with decision aids, including the use of preference-sensitive health care services selected for the demonstration project and expenditures for those services, the impact on patients, including patient understanding of the treatment options presented and concordance between patient values and the care received, and patient and practitioner satisfaction with the shared decision-making process.

(3) The health care authority may solicit and accept funding to support the demonstration and evaluation.

Sec. 3. RCW 7.70.060 and 1975-'76 2nd ex. s. c 56 s 11 are each amended to read as follows:

(1) If a patient while legally competent, or his or her representative if he or she is not competent, signs a consent form which sets forth the following, the signed consent form shall constitute prima facie evidence that the patient gave his or her informed consent to the treatment administered and the patient has the burden of rebutting this by a preponderance of the evidence:

((+)) (a) A description, in language the patient could reasonably be expected to understand, of:

((+)) (i) The nature and character of the proposed treatment;

((+)) (ii) The anticipated results of the proposed treatment;

((+)) (iii) The recognized possible alternative forms of treatment; and

((+)) (iv) The recognized serious possible risks, complications, and anticipated benefits involved in the treatment and in the recognized possible alternative forms of treatment, including nontreatment;

((+)) (b) Or as an alternative, a statement that the patient elects not to be informed of the elements set forth in (a) of this subsection ((+) of this section)).

(2) If a patient while legally competent, or his or her representative if he or she is not competent, signs an acknowledgement of shared decision making as described in this section, such acknowledgement shall constitute prima facie evidence that the patient gave his or her informed consent to the treatment administered and the patient has the burden of rebutting this by clear and convincing evidence. An acknowledgement of shared decision making shall include:

(a) A statement that the patient, or his or her representative, and the health care provider have engaged in shared decision making as

an alternative means of meeting the informed consent requirements set forth by laws, accreditation standards, and other mandates;

(b) A brief description of the services that the patient and provider jointly have agreed will be furnished;

(c) A brief description of the patient decision aid or aids that have been used by the patient and provider to address the needs for (i) high-quality, up-to-date information about the condition, including risk and benefits of available options and, if appropriate, a discussion of the limits of scientific knowledge about outcomes; (ii) values clarification to help patients sort out their values and preferences; and (iii) guidance or coaching in deliberation, designed to improve the patient's involvement in the decision process;

(d) A statement that the patient or his or her representative understands: The risk or seriousness of the disease or condition to be prevented or treated; the available treatment alternatives, including nontreatment; and the risks, benefits, and uncertainties of the treatment alternatives, including nontreatment; and

(e) A statement certifying that the patient or his or her representative has had the opportunity to ask the provider questions, and to have any questions answered to the patient's satisfaction, and indicating the patient's intent to receive the identified services.

(3) As used in this section, "shared decision making" means a process in which the physician or other health care practitioner discusses with the patient or his or her representative the information specified in subsection (2) of this section with the use of a patient decision aid and the patient shares with the provider such relevant personal information as might make one treatment or side effect more or less tolerable than others.

(4) As used in this section, "patient decision aid" means a written, audio-visual, or online tool that provides a balanced presentation of the condition and treatment options, benefits, and harms, including, if appropriate, a discussion of the limits of scientific knowledge about outcomes, and that is certified by one or more national certifying organizations approved by the health care authority under section 2 of this act.

(5) Failure to use a form or to engage in shared decision making, with or without the use of a patient decision aid, shall not be admissible as evidence of failure to obtain informed consent. There shall be no liability, civil or otherwise, resulting from a health care provider choosing either the signed consent form set forth in subsection (1)(a) of this section or the signed acknowledgement of shared decision making as set forth in subsection (2) of this section.

PREVENTION AND MANAGEMENT OF CHRONIC ILLNESS

NEW SECTION. Sec. 4. A new section is added to chapter 74.09 RCW to read as follows:

(1) The department of social and health services, in collaboration with the department of health, shall:

(a) Design and implement medical homes for its aged, blind, and disabled clients in conjunction with chronic care management programs to improve health outcomes, access, and cost-effectiveness. Programs must be evidence based, facilitating the use of information technology to improve quality of care, must acknowledge the role of primary care providers and include financial and other supports to enable these providers to effectively carry out their role in chronic care management, and must improve coordination of primary, acute, and long-term care for those clients with multiple chronic conditions. The department shall consider expansion of existing medical home and chronic care management programs and build on the Washington state collaborative initiative. The department shall use best practices

in identifying those clients best served under a chronic care management model using predictive modeling through claims or other health risk information; and

(b) Evaluate the effectiveness of current chronic care management efforts in the health and recovery services administration and the aging and disability services administration, comparison to best practices, and recommendations for future efforts and organizational structure to improve chronic care management.

(2) For purposes of this section:

(a) "Medical home" means a site of care that provides comprehensive preventive and coordinated care centered on the patient needs and assures high quality, accessible, and efficient care.

(b) "Chronic care management" means the department's program that provides care management and coordination activities for medical assistance clients determined to be at risk for high medical costs. "Chronic care management" provides education and training and/or coordination that assist program participants in improving self-management skills to improve health outcomes and reduce medical costs by educating clients to better utilize services.

NEW SECTION. Sec. 5. A new section is added to chapter 43.70 RCW to read as follows:

(1) The department shall conduct a program of training and technical assistance regarding care of people with chronic conditions for providers of primary care. The program shall emphasize evidence-based high quality preventive and chronic disease care. The department may designate one or more chronic conditions to be the subject of the program.

(2) The training and technical assistance program shall include the following elements:

(a) Clinical information systems and sharing and organization of patient data;

(b) Decision support to promote evidence-based care;

(c) Clinical delivery system design;

(d) Support for patients managing their own conditions; and

(e) Identification and use of community resources that are available in the community for patients and their families.

(3) In selecting primary care providers to participate in the program, the department shall consider the number and type of patients with chronic conditions the provider serves, and the provider's participation in the medicaid program, the basic health plan, and health plans offered through the public employees' benefits board.

NEW SECTION. Sec. 6. (1) The health care authority, in collaboration with the department of health, shall design and implement a medical home for chronically ill state employees enrolled in the state's self-insured uniform medical plan. Programs must be evidence based, facilitating the use of information technology to improve quality of care and must improve coordination of primary, acute, and long-term care for those enrollees with multiple chronic conditions. The authority shall consider expansion of existing medical home and chronic care management programs. The authority shall use best practices in identifying those employees best served under a chronic care management model using predictive modeling through claims or other health risk information.

(2) For purposes of this section:

(a) "Medical home" means a site of care that provides comprehensive preventive and coordinated care centered on the patient needs and assures high-quality, accessible, and efficient care.

(b) "Chronic care management" means the authority's program that provides care management and coordination activities for health

plan enrollees determined to be at risk for high medical costs. "Chronic care management" provides education and training and/or coordination that assist program participants in improving self-management skills to improve health outcomes and reduce medical costs by educating clients to better utilize services.

Sec. 7. RCW 70.83.040 and 2005 c 518 s 938 are each amended to read as follows:

When notified of positive screening tests, the state department of health shall offer the use of its services and facilities, designed to prevent mental retardation or physical defects in such children, to the attending physician, or the parents of the newborn child if no attending physician can be identified.

The services and facilities of the department, and other state and local agencies cooperating with the department in carrying out programs of detection and prevention of mental retardation and physical defects shall be made available to the family and physician to the extent required in order to carry out the intent of this chapter and within the availability of funds. ~~(The department has the authority to collect a reasonable fee, from the parents or other responsible party of each infant screened to fund specialty clinics that provide treatment services for hemoglobin diseases, phenylketonuria, congenital adrenal hyperplasia, congenital hypothyroidism, and, during the 2005-07 fiscal biennium, other disorders defined by the board of health under RCW 70.83.020. The fee may be collected through the facility where the screening specimen is obtained.)~~

NEW SECTION. Sec. 8. A new section is added to chapter 70.83 RCW to read as follows:

The department has the authority to collect the following fees from the parents or other responsible party of each infant screened for congenital disorders as defined by the state board of health under RCW 70.83.020:

(1) A fee as authorized under RCW 43.20B.020 sufficient to cover the cost of activities related to administering newborn screening requirements under RCW 70.83.020; and

(2) A fee of three dollars and fifty cents to fund specialty clinics that provide treatment services for those with the defined disorders.

The fee may be collected through the facility where the screening specimen is obtained.

COST AND QUALITY INFORMATION FOR CONSUMERS AND PROVIDERS

NEW SECTION. Sec. 9. A new section is added to chapter 41.05 RCW to read as follows:

The Washington state quality forum is established within the authority. In collaboration with the Puget Sound health alliance and other local organizations, the forum shall:

(1) Collect and disseminate research regarding health care quality, evidence-based medicine, and patient safety to promote best practices, in collaboration with the technology assessment program and the prescription drug program;

(2) Coordinate the collection of health care quality data among state health care purchasing agencies;

(3) Adopt a set of measures to evaluate and compare health care cost and quality and provider performance;

(4) Identify and disseminate information regarding variations in clinical practice patterns across the state; and

(5) Produce an annual quality report detailing clinical practice patterns for purchasers, providers, insurers, and policy makers. The agencies shall report to the legislature by September 1, 2007.

NEW SECTION. Sec. 10. A new section is added to chapter 41.05 RCW to read as follows:

(1) The administrator shall design and pilot a consumer-centric health information infrastructure and the first health record banks that will facilitate the secure exchange of health information when and where needed and shall:

(a) Complete the plan of initial implementation, including but not limited to determining the technical infrastructure for health record banks and the account locator service, setting criteria and standards for health record banks, and determining oversight of health record banks;

(b) Implement the first health record banks in pilot sites as funding allows;

(c) Involve health care consumers in meaningful ways in the design, implementation, oversight, and dissemination of information on the health record bank system; and

(d) Promote adoption of electronic medical records and health information exchange through continuation of the Washington health information collaborative, and by working with private payors and other organizations in restructuring reimbursement to provide incentives for providers to adopt electronic medical records in their practices.

(2) The administrator may establish an advisory board, a stakeholder committee, and subcommittees to assist in carrying out the duties under this section. The administrator may reappoint health information infrastructure advisory board members to assure continuity and shall appoint any additional representatives that may be required for their expertise and experience.

(a) The administrator shall appoint the chair of the advisory board, chairs, and co-chairs of the stakeholder committee, if formed;

(b) Meetings of the board, stakeholder committee, and any advisory group are subject to chapter 42.30 RCW, the open public meetings act, including RCW 42.30.110(1)(l), which authorizes an executive session during a regular or special meeting to consider proprietary or confidential nonpublished information; and

(c) The members of the board, stakeholder committee, and any advisory group:

(i) Shall agree to the terms and conditions imposed by the administrator regarding conflicts of interest as a condition of appointment;

(ii) Are immune from civil liability for any official acts performed in good faith as members of the board, stakeholder committee, or any advisory group.

(3) Members of the board may be compensated for participation in accordance with a personal services contract to be executed after appointment and before commencement of activities related to the work of the board. Members of the stakeholder committee shall not receive compensation but shall be reimbursed under RCW 43.03.050 and 43.03.060.

(4) The administrator may work with public and private entities to develop and encourage the use of personal health records which are portable, interoperable, secure, and respectful of patients' privacy.

(5) The administrator may enter into contracts to issue, distribute, and administer grants that are necessary or proper to carry out this section.

Sec. 11. RCW 43.70.110 and 2006 c 72 s 3 are each amended to read as follows:

(1) The secretary shall charge fees to the licensee for obtaining a license. After June 30, 1995, municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that

such other emergency services shall only be charged for their pro rata share of the cost of licensure and inspection, if appropriate. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Except as provided in (~~RCW 18.79.202, until June 30, 2013, and except for the cost of regulating retired volunteer medical workers in accordance with RCW 18.130.360~~) subsection (3) of this section, fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) License fees shall include amounts in addition to the cost of licensure activities in the following circumstances:

(a) For registered nurses and licensed practical nurses licensed under chapter 18.79 RCW, support of a central nursing resource center as provided in RCW 18.79.202, until June 30, 2013;

(b) For all health care providers licensed under RCW 18.130.040, the cost of regulatory activities for retired volunteer medical worker licensees as provided in RCW 18.130.360; and

(c) For physicians licensed under chapter 18.71 RCW, physician assistants licensed under chapter 18.71A RCW, osteopathic physicians licensed under chapter 18.57 RCW, osteopathic physicians' assistants licensed under chapter 18.57A RCW, naturopaths licensed under chapter 18.36A RCW, podiatrists licensed under chapter 18.22 RCW, chiropractors licensed under chapter 18.25 RCW, psychologists licensed under chapter 18.83 RCW, registered nurses licensed under chapter 18.79 RCW, optometrists licensed under chapter 18.53 RCW, mental health counselors licensed under chapter 18.225 RCW, massage therapists licensed under chapter 18.108 RCW, clinical social workers licensed under chapter 18.225 RCW, and acupuncturists licensed under chapter 18.06 RCW, the license fees shall include up to an additional twenty-five dollars to be transferred by the department to the University of Washington for the purposes of section 12 of this act.

(4) Department of health advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees.

NEW SECTION. Sec. 12. A new section is added to chapter 43.70 RCW to read as follows:

Within the amounts transferred from the department of health under RCW 43.70.110(3), the University of Washington shall, through the health sciences library, provide online access to selected vital clinical resources, medical journals, decision support tools, and evidence-based reviews of procedures, drugs, and devices to the health professionals listed in RCW 43.70.110(3)(c). Online access shall be available no later than January 1, 2009.

REDUCING UNNECESSARY EMERGENCY ROOM USE

Sec. 13. RCW 41.05.220 and 1998 c 245 s 38 are each amended to read as follows:

(1) State general funds appropriated to the department of health for the purposes of funding community health centers to provide primary health and dental care services, migrant health services, and maternity health care services shall be transferred to the state health care authority. Any related administrative funds expended by the department of health for this purpose shall also be transferred to the health care authority. The health care authority shall exclusively expend these funds through contracts with community health centers to provide primary health and dental care services, migrant health services, and maternity health care services. The administrator of the

health care authority shall establish requirements necessary to assure community health centers provide quality health care services that are appropriate and effective and are delivered in a cost-efficient manner. The administrator shall further assure that community health centers have appropriate referral arrangements for acute care and medical specialty services not provided by the community health centers.

(2) The authority, in consultation with the department of health, shall work with community and migrant health clinics and other providers of care to underserved populations, to ensure that the number of people of color and underserved people receiving access to managed care is expanded in proportion to need, based upon demographic data.

(3) In contracting with community health centers to provide primary health and dental services, migrant health services, and maternity health care services under subsection (1) of this section the authority shall give priority to those community health centers working with local hospitals, local community health collaboratives, and/or local public health jurisdictions to successfully reduce unnecessary emergency room use.

NEW SECTION. Sec. 14. The Washington state health care authority and the department of social and health services shall report to the legislature by December 1, 2007, on recent trends in unnecessary emergency room use by enrollees in state purchased health care programs that they administer and the uninsured, and then partner with community organizations and local health care providers to design a demonstration pilot to reduce such unnecessary visits.

NEW SECTION. Sec. 15. A new section is added to chapter 41.05 RCW to read as follows:

In collaboration with the department of social and health services, the administrator shall provide all persons enrolled in health plans under this chapter and chapter 70.47 RCW with access to a twenty-four hour, seven day a week nurse hotline.

NEW SECTION. Sec. 16. A new section is added to chapter 74.09 RCW to read as follows:

In collaboration with the health care authority, the department shall provide all persons receiving services under this chapter with access to a twenty-four hour, seven day a week nurse hotline. The health care authority and the department of social and health services shall determine the most appropriate way to provide the nurse hotline under section 15 of this act and this section, which may include use of the 211 system established in chapter 43.211 RCW.

REDUCE HEALTH CARE ADMINISTRATIVE COSTS

NEW SECTION. Sec. 17. By September 1, 2007, the insurance commissioner shall provide a report to the governor and the legislature that identifies the key contributors to health care administrative costs and evaluates opportunities to reduce them, including suggested changes to state law. The report shall be completed in collaboration with health care providers, carriers, state health purchasing agencies, the Washington healthcare forum, and other interested parties.

COVERAGE FOR DEPENDENTS TO AGE TWENTY-FIVE

NEW SECTION. Sec. 18. A new section is added to chapter 41.05 RCW to read as follows:

(1) Any plan offered to employees under this chapter must offer each employee the option of covering any unmarried dependent of the employee under the age of twenty-five.

(2) Any employee choosing under subsection (1) of this section to cover a dependent who is: (a) Age twenty through twenty-three and not a registered student at an accredited secondary school, college, university, vocational school, or school of nursing; or (b) age twenty-four, shall be required to pay the full cost of such coverage.

(3) Any employee choosing under subsection (1) of this section to cover a dependent with disabilities, developmental disabilities, mental illness, or mental retardation, who is incapable of self-support, may continue covering that dependent under the same premium and payment structure as for dependents under the age of twenty, irrespective of age.

NEW SECTION. Sec. 19. A new section is added to chapter 48.20 RCW to read as follows:

Any disability insurance contract that provides coverage for a subscriber's dependent must offer the option of covering any unmarried dependent under the age of twenty-five.

NEW SECTION. Sec. 20. A new section is added to chapter 48.21 RCW to read as follows:

Any group disability insurance contract or blanket disability insurance contract that provides coverage for a participating member's dependent must offer each participating member the option of covering any unmarried dependent under the age of twenty-five.

NEW SECTION. Sec. 21. A new section is added to chapter 48.44 RCW to read as follows:

(1) Any individual health care service plan contract that provides coverage for a subscriber's dependent must offer the option of covering any unmarried dependent under the age of twenty-five.

(2) Any group health care service plan contract that provides coverage for a participating member's dependent must offer each participating member the option of covering any unmarried dependent under the age of twenty-five.

NEW SECTION. Sec. 22. A new section is added to chapter 48.46 RCW to read as follows:

(1) Any individual health maintenance agreement that provides coverage for a subscriber's dependent must offer the option of covering any unmarried dependent under the age of twenty-five.

(2) Any group health maintenance agreement that provides coverage for a participating member's dependent must offer each participating member the option of covering any unmarried dependent under the age of twenty-five.

SUSTAINABILITY AND ACCESS TO PUBLIC PROGRAMS

NEW SECTION. Sec. 23. (1) The department of social and health services shall develop a series of options that require federal waivers and state plan amendments to expand coverage and leverage federal and state resources for the state's basic health program, for the medical assistance program, as codified at Title XIX of the federal social security act, and the state's children's health insurance program, as codified at Title XXI of the federal social security act. The department shall propose options including but not limited to:

(a) Offering alternative benefit designs to promote high quality care, improve health outcomes, and encourage cost-effective treatment options and redirect savings to finance additional coverage;

(b) Creation of a health opportunity account demonstration program for individuals eligible for transitional medical benefits. When a participant in the health opportunity account demonstration program satisfies his or her deductible, the benefits provided shall be those included in the medicaid benefit package in effect during the period of the demonstration program; and

(c) Promoting private health insurance plans and premium subsidies to purchase employer-sponsored insurance wherever possible, including federal approval to expand the department's employer-sponsored insurance premium assistance program to enrollees covered through the state's children's health insurance program.

(2) Prior to submitting requests for federal waivers or state plan amendments, the department shall consult with and seek input from stakeholders and other interested parties.

(3) The department of social and health services, in collaboration with the Washington state health care authority, shall ensure that enrollees are not simultaneously enrolled in the state's basic health program and the medical assistance program or the state's children's health insurance program to ensure coverage for the maximum number of people within available funds. Priority enrollment in the basic health program shall be given to those who disenrolled from the program in order to enroll in medicaid, and subsequently became ineligible for medicaid coverage.

NEW SECTION. Sec. 24. A new section is added to chapter 48.43 RCW to read as follows:

When the department of social and health services determines that it is cost-effective to enroll a person eligible for medical assistance under chapter 74.09 RCW in an employer-sponsored health plan, a carrier shall permit the enrollment of the person in the health plan for which he or she is otherwise eligible without regard to any open enrollment period restrictions.

REINSURANCE

NEW SECTION. Sec. 25. (1) The office of financial management, in collaboration with the office of the insurance commissioner, shall evaluate options and design a state-supported reinsurance program to address the impact of high cost enrollees in the individual and small group health insurance markets, and submit implementing legislation and supporting information, including financing options, to the governor and the legislature by December 1, 2007. In designing the program, the office of financial management shall:

(a) Estimate the quantitative impact on premium savings, premium stability over time and across groups of enrollees, individual and employer take-up, number of uninsured, and government costs associated with a government-funded stop-loss insurance program, including distinguishing between one-time premium savings and savings in subsequent years. In evaluating the various reinsurance models, evaluate and consider (i) the reduction in total health care costs to the state and private sector, and (ii) the reduction in individual premiums paid by employers, employees, and individuals;

(b) Identify all relevant design issues and alternative options for each issue. At a minimum, the evaluation shall examine (i) a reinsurance corridor of ten thousand dollars to ninety thousand dollars, and a reimbursement of ninety percent; (ii) the impacts of providing reinsurance for all small group products or a subset of products; and (iii) the applicability of a chronic care program such as the approach used by the department of labor and industries with the

centers of occupational health and education. Where quantitative impacts cannot be estimated, the office of financial management shall assess qualitative impacts of design issues and their options, including potential disincentives for reducing premiums, achieving premium stability, sustaining/increasing take-up, decreasing the number of uninsured, and managing government's stop-loss insurance costs;

(c) Identify market and regulatory changes needed to maximize the chance of the program achieving its policy goals, including how the program will relate to other coverage programs and markets. Design efforts shall coordinate with other design efforts targeting small group programs that may be directed by the legislature, as well as other approaches examining alternatives to managing risk;

(d) Address conditions under which overall expenditures could increase as a result of a government-funded stop-loss program and options to mitigate those conditions, such as passive versus aggressive use of disease and care management programs by insurers;

(e) Determine whether the Washington state health insurance pool should be retained, and if so, develop options for additional sources of funding;

(f) Evaluate, and quantify where possible, the behavioral responses of insurers to the program including impacts on insurer premiums and practices for settling legal disputes around large claims; and

(g) Provide alternatives for transitioning from the status quo and, where applicable, alternatives for phasing in some design elements, such as threshold or corridor levels, to balance government costs and premium savings.

(2) Within funds specifically appropriated for this purpose, the office of financial management may contract with actuaries and other experts as necessary to meet the requirements of this section.

THE WASHINGTON STATE HEALTH INSURANCE POOL AND THE BASIC HEALTH PLAN

Sec. 26. RCW 48.41.110 and 2001 c 196 s 4 are each amended to read as follows:

(1) The pool shall offer one or more care management plans of coverage. Such plans may, but are not required to, include point of service features that permit participants to receive in-network benefits or out-of-network benefits subject to differential cost shares. ~~((Covered persons enrolled in the pool on January 1, 2001, may continue coverage under the pool plan in which they are enrolled on that date. However,))~~ The pool may incorporate managed care features and encourage enrollees to participate in chronic care and disease management and evidence-based protocols into ~~((such))~~ existing plans.

(2) The administrator shall prepare a brochure outlining the benefits and exclusions of ~~((the))~~ pool ~~((policy))~~ policies in plain language. After approval by the board, such brochure shall be made reasonably available to participants or potential participants.

(3) The health insurance ~~((policy))~~ policies issued by the pool shall pay only reasonable amounts for medically necessary eligible health care services rendered or furnished for the diagnosis or treatment of covered illnesses, injuries, and conditions ~~((which are not otherwise limited or excluded))~~. Eligible expenses are the reasonable amounts for the health care services and items for which benefits are extended under ~~((the))~~ a pool policy. ~~((Such benefits shall at minimum include, but not be limited to, the following services or related items:))~~

(4) The pool shall offer at least one policy which at a minimum includes, but is not limited to, the following services or related items:

(a) Hospital services, including charges for the most common semiprivate room, for the most common private room if semiprivate rooms do not exist in the health care facility, or for the private room if medically necessary, but limited to a total of one hundred eighty inpatient days in a calendar year, and limited to thirty days inpatient care for mental and nervous conditions, or alcohol, drug, or chemical dependency or abuse per calendar year;

(b) Professional services including surgery for the treatment of injuries, illnesses, or conditions, other than dental, which are rendered by a health care provider, or at the direction of a health care provider, by a staff of registered or licensed practical nurses, or other health care providers;

(c) The first twenty outpatient professional visits for the diagnosis or treatment of one or more mental or nervous conditions or alcohol, drug, or chemical dependency or abuse rendered during a calendar year by one or more physicians, psychologists, or community mental health professionals, or, at the direction of a physician, by other qualified licensed health care practitioners, in the case of mental or nervous conditions, and rendered by a state certified chemical dependency program approved under chapter 70.96A RCW, in the case of alcohol, drug, or chemical dependency or abuse;

(d) Drugs and contraceptive devices requiring a prescription;

(e) Services of a skilled nursing facility, excluding custodial and convalescent care, for not more than one hundred days in a calendar year as prescribed by a physician;

(f) Services of a home health agency;

(g) Chemotherapy, radioisotope, radiation, and nuclear medicine therapy;

(h) Oxygen;

(i) Anesthesia services;

(j) Prostheses, other than dental;

(k) Durable medical equipment which has no personal use in the absence of the condition for which prescribed;

(l) Diagnostic x-rays and laboratory tests;

(m) Oral surgery limited to the following: Fractures of facial bones; excisions of mandibular joints, lesions of the mouth, lip, or tongue, tumors, or cysts excluding treatment for temporomandibular joints; incision of accessory sinuses, mouth salivary glands or ducts; dislocations of the jaw; plastic reconstruction or repair of traumatic injuries occurring while covered under the pool; and excision of impacted wisdom teeth;

(n) Maternity care services;

(o) Services of a physical therapist and services of a speech therapist;

(p) Hospice services;

(q) Professional ambulance service to the nearest health care facility qualified to treat the illness or injury; and

(r) Other medical equipment, services, or supplies required by physician's orders and medically necessary and consistent with the diagnosis, treatment, and condition.

~~((4))~~ (5) The pool shall offer at least one policy which closely adheres to benefits available in the private, individual market.

(6) The board shall design and employ cost containment measures and requirements such as, but not limited to, care coordination, provider network limitations, preadmission certification, and concurrent inpatient review which may make the pool more cost-effective.

~~((5))~~ (7) The pool benefit policy may contain benefit limitations, exceptions, and cost shares such as copayments, coinsurance, and deductibles that are consistent with managed care products, except that differential cost shares may be adopted by the board for nonnetwork providers under point of service plans. ((The

~~pool benefit policy cost shares and limitations must be consistent with those that are generally included in health plans approved by the insurance commissioner; however;))~~ No limitation, exception, or reduction may be used that would exclude coverage for any disease, illness, or injury.

~~((6))~~ (8) The pool may not reject an individual for health plan coverage based upon preexisting conditions of the individual or deny, exclude, or otherwise limit coverage for an individual's preexisting health conditions; except that it shall impose a six-month benefit waiting period for preexisting conditions for which medical advice was given, for which a health care provider recommended or provided treatment, or for which a prudent layperson would have sought advice or treatment, within six months before the effective date of coverage. The preexisting condition waiting period shall not apply to prenatal care services. The pool may not avoid the requirements of this section through the creation of a new rate classification or the modification of an existing rate classification. Credit against the waiting period shall be as provided in subsection ((7)) (9) of this section.

~~((7))~~ (9)(a) Except as provided in (b) of this subsection, the pool shall credit any preexisting condition waiting period in its plans for a person who was enrolled at any time during the sixty-three day period immediately preceding the date of application for the new pool plan. For the person previously enrolled in a group health benefit plan, the pool must credit the aggregate of all periods of preceding coverage not separated by more than sixty-three days toward the waiting period of the new health plan. For the person previously enrolled in an individual health benefit plan other than a catastrophic health plan, the pool must credit the period of coverage the person was continuously covered under the immediately preceding health plan toward the waiting period of the new health plan. For the purposes of this subsection, a preceding health plan includes an employer-provided self-funded health plan.

(b) The pool shall waive any preexisting condition waiting period for a person who is an eligible individual as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. 300gg-41(b)).

~~((8))~~ (10) If an application is made for the pool policy as a result of rejection by a carrier, then the date of application to the carrier, rather than to the pool, should govern for purposes of determining preexisting condition credit.

(11) The pool shall contract with organizations that provide care management that has been demonstrated to be effective and shall encourage enrollees who are eligible for care management services to participate.

Sec. 27. RCW 48.41.160 and 1987 c 431 s 16 are each amended to read as follows:

(1) ((A pool policy offered under this chapter shall contain provisions under which the pool is obligated to renew the policy until the day on which the individual in whose name the policy is issued first becomes eligible for medicare coverage. At that time, coverage of dependents shall terminate if such dependents are eligible for coverage under a different health plan. Dependents who become eligible for medicare prior to the individual in whose name the policy is issued, shall receive benefits in accordance with RCW 48.41.150)) On or before December 31, 2007, the pool shall cancel all existing pool policies and replace them with policies that are identical to the existing policies except for the inclusion of a provision providing for a guarantee of the continuity of coverage consistent with this section.

(2) A pool policy shall contain a guarantee of the individual's right to continued coverage, subject to the provisions of subsections (4) and (5) of this section.

(3) The guarantee of continuity of coverage required by this section shall not prevent the pool from canceling or nonrenewing a policy for:

(a) Nonpayment of premium;

(b) Violation of published policies of the pool;

(c) Failure of a covered person who becomes eligible for medicare benefits by reason of age to apply for a pool medical supplement plan, or a medicare supplement plan or other similar plan offered by a carrier pursuant to federal laws and regulations;

(d) Failure of a covered person to pay any deductible or copayment amount owed to the pool and not the provider of health care services;

(e) Covered persons committing fraudulent acts as to the pool;

(f) Covered persons materially breaching the pool policy; or

(g) Changes adopted to federal or state laws when such changes no longer permit the continued offering of such coverage.

(4)(a) The guarantee of continuity of coverage provided by this section requires that if the pool replaces a plan, it must make the replacement plan available to all individuals in the plan being replaced. The replacement plan must include all of the services covered under the replaced plan, through unreasonable cost-sharing requirements or otherwise. The pool may also allow individuals who are covered by a plan that is being replaced an unrestricted right to transfer to a fully comparable plan.

(b) The guarantee of continuity of coverage provided by this section requires that if the pool discontinues offering a plan: (i) The pool must provide notice to each individual of the discontinuation at least ninety days prior to the date of the discontinuation; (ii) the pool must offer to each individual provided coverage under the discontinued plan the option to enroll in any other plan currently offered by the pool for which the individual is otherwise eligible; and (iii) in exercising the option to discontinue a plan and in offering the option of coverage under (b)(ii) of this subsection, the pool must act uniformly without regard to any health status-related factor of enrolled individuals or individuals who may become eligible for this coverage.

(c) The pool cannot replace a plan under this subsection until it has completed an evaluation of the impact of replacing the plan upon:

(i) The cost and quality of care to pool enrollees;

(ii) Pool financing and enrollment;

(iii) The board's ability to offer comprehensive and other plans to its enrollees;

(iv) Other items identified by the board.

In its evaluation, the board must request input from the constituents represented by the board members.

(d) The guarantee of continuity of coverage provided by this section does not apply if the pool has zero enrollment in a plan.

(5) The pool may not change the rates for pool policies except on a class basis, with a clear disclosure in the policy of the pool's right to do so.

~~((3))~~ (6) A pool policy offered under this chapter shall provide that, upon the death of the individual in whose name the policy is issued, every other individual then covered under the policy may elect, within a period specified in the policy, to continue coverage under the same or a different policy.

Sec. 28. RCW 48.41.200 and 2000 c 79 s 17 are each amended to read as follows:

(1) The pool shall determine the standard risk rate by calculating the average individual standard rate charged for coverage comparable to pool coverage by the five largest members, measured in terms of individual market enrollment, offering such coverages in the state. In the event five members do not offer comparable coverage, the standard risk rate shall be established using reasonable actuarial techniques and shall reflect anticipated experience and expenses for such coverage in the individual market.

(2) Subject to subsection (3) of this section, maximum rates for pool coverage shall be as follows:

(a) Maximum rates for a pool indemnity health plan shall be one hundred fifty percent of the rate calculated under subsection (1) of this section;

(b) Maximum rates for a pool care management plan shall be one hundred twenty-five percent of the rate calculated under subsection (1) of this section; and

(c) Maximum rates for a person eligible for pool coverage pursuant to RCW 48.41.100(1)(a) who was enrolled at any time during the sixty-three day period immediately prior to the date of application for pool coverage in a group health benefit plan or an individual health benefit plan other than a catastrophic health plan as defined in RCW 48.43.005, where such coverage was continuous for at least eighteen months, shall be:

(i) For a pool indemnity health plan, one hundred twenty-five percent of the rate calculated under subsection (1) of this section; and

(ii) For a pool care management plan, one hundred ten percent of the rate calculated under subsection (1) of this section.

(3)(a) Subject to (b) and (c) of this subsection:

(i) The rate for any person (~~aged fifty to sixty-four~~) whose current gross family income is less than two hundred fifty-one percent of the federal poverty level shall be reduced by thirty percent from what it would otherwise be;

(ii) The rate for any person (~~aged fifty to sixty-four~~) whose current gross family income is more than two hundred fifty but less than three hundred one percent of the federal poverty level shall be reduced by fifteen percent from what it would otherwise be;

(iii) The rate for any person who has been enrolled in the pool for more than thirty-six months shall be reduced by five percent from what it would otherwise be.

(b) In no event shall the rate for any person be less than one hundred ten percent of the rate calculated under subsection (1) of this section.

(c) Rate reductions under (a)(i) and (ii) of this subsection shall be available only to the extent that funds are specifically appropriated for this purpose in the omnibus appropriations act.

Sec. 29. RCW 48.41.037 and 2000 c 79 s 36 are each amended to read as follows:

The Washington state health insurance pool account is created in the custody of the state treasurer. All receipts from moneys specifically appropriated to the account must be deposited in the account. Expenditures from this account shall be used to cover deficits incurred by the Washington state health insurance pool under this chapter in excess of the threshold established in this section. To the extent funds are available in the account, funds shall be expended from the account to offset that portion of the deficit that would otherwise have to be recovered by imposing an assessment on members in excess of a threshold of seventy cents per insured person per month. The commissioner shall authorize expenditures from the account, to the extent that funds are available in the account, upon certification by the pool board that assessments will exceed the threshold level established in this section. The account is subject to

the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

Whether the assessment has reached the threshold of seventy cents per insured person per month shall be determined by dividing the total aggregate amount of assessment by the proportion of total assessed members. Thus, stop loss members shall be counted as one-tenth of a whole member in the denominator given that is the amount they are assessed proportionately relative to a fully insured medical member.

Sec. 30. RCW 48.41.100 and 2001 c 196 s 3 are each amended to read as follows:

(1) The following persons who are residents of this state are eligible for pool coverage:

(a) Any person who provides evidence of a carrier's decision not to accept him or her for enrollment in an individual health benefit plan as defined in RCW 48.43.005 based upon, and within ninety days of the receipt of, the results of the standard health questionnaire designated by the board and administered by health carriers under RCW 48.43.018;

(b) Any person who continues to be eligible for pool coverage based upon the results of the standard health questionnaire designated by the board and administered by the pool administrator pursuant to subsection (3) of this section;

(c) Any person who resides in a county of the state where no carrier or insurer eligible under chapter 48.15 RCW offers to the public an individual health benefit plan other than a catastrophic health plan as defined in RCW 48.43.005 at the time of application to the pool, and who makes direct application to the pool; and

(d) Any medicare eligible person upon providing evidence of rejection for medical reasons, a requirement of restrictive riders, an up-rated premium, or a preexisting conditions limitation on a medicare supplemental insurance policy under chapter 48.66 RCW, the effect of which is to substantially reduce coverage from that received by a person considered a standard risk by at least one member within six months of the date of application.

(2) The following persons are not eligible for coverage by the pool:

(a) Any person having terminated coverage in the pool unless (i) twelve months have lapsed since termination, or (ii) that person can show continuous other coverage which has been involuntarily terminated for any reason other than nonpayment of premiums. However, these exclusions do not apply to eligible individuals as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. Sec. 300gg-41(b));

(b) Any person on whose behalf the pool has paid out (~~one~~) two million dollars in benefits;

(c) Inmates of public institutions and persons whose benefits are duplicated under public programs. However, these exclusions do not apply to eligible individuals as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. Sec. 300gg-41(b));

(d) Any person who resides in a county of the state where any carrier or insurer regulated under chapter 48.15 RCW offers to the public an individual health benefit plan other than a catastrophic health plan as defined in RCW 48.43.005 at the time of application to the pool and who does not qualify for pool coverage based upon the results of the standard health questionnaire, or pursuant to subsection (1)(d) of this section.

(3) When a carrier or insurer regulated under chapter 48.15 RCW begins to offer an individual health benefit plan in a county where no carrier had been offering an individual health benefit plan:

(a) If the health benefit plan offered is other than a catastrophic health plan as defined in RCW 48.43.005, any person enrolled in a pool plan pursuant to subsection (1)(c) of this section in that county shall no longer be eligible for coverage under that plan pursuant to subsection (1)(c) of this section, but may continue to be eligible for pool coverage based upon the results of the standard health questionnaire designated by the board and administered by the pool administrator. The pool administrator shall offer to administer the questionnaire to each person no longer eligible for coverage under subsection (1)(c) of this section within thirty days of determining that he or she is no longer eligible;

(b) Losing eligibility for pool coverage under this subsection (3) does not affect a person's eligibility for pool coverage under subsection (1)(a), (b), or (d) of this section; and

(c) The pool administrator shall provide written notice to any person who is no longer eligible for coverage under a pool plan under this subsection (3) within thirty days of the administrator's determination that the person is no longer eligible. The notice shall: (i) Indicate that coverage under the plan will cease ninety days from the date that the notice is dated; (ii) describe any other coverage options, either in or outside of the pool, available to the person; (iii) describe the procedures for the administration of the standard health questionnaire to determine the person's continued eligibility for coverage under subsection (1)(b) of this section; and (iv) describe the enrollment process for the available options outside of the pool.

(4) The board shall ensure that an independent analysis of the eligibility standards for the pool coverage is conducted, including examining the eight percent eligibility threshold, eligibility for medicaid enrollees and other publicly sponsored enrollees, and the impacts on the pool and the state budget. The board shall report the findings to the legislature by December 1, 2007.

Sec. 31. RCW 48.41.120 and 2000 c 79 s 14 are each amended to read as follows:

(1) Subject to the limitation provided in subsection (3) of this section, a pool policy offered in accordance with RCW 48.41.110(3) shall impose a deductible. Deductibles of five hundred dollars and one thousand dollars on a per person per calendar year basis shall initially be offered. The board may authorize deductibles in other amounts. The deductible shall be applied to the first five hundred dollars, one thousand dollars, or other authorized amount of eligible expenses incurred by the covered person.

(2) Subject to the limitations provided in subsection (3) of this section, a mandatory coinsurance requirement shall be imposed at ~~((the))~~ a rate ~~((of))~~ not to exceed twenty percent of eligible expenses in excess of the mandatory deductible and which supports the efficient delivery of high quality health care services for the medical conditions of pool enrollees.

(3) The maximum aggregate out of pocket payments for eligible expenses by the insured in the form of deductibles and coinsurance under a pool policy offered in accordance with RCW 48.41.110(3) shall not exceed in a calendar year:

(a) One thousand five hundred dollars per individual, or three thousand dollars per family, per calendar year for the five hundred dollar deductible policy;

(b) Two thousand five hundred dollars per individual, or five thousand dollars per family per calendar year for the one thousand dollar deductible policy; or

(c) An amount authorized by the board for any other deductible policy.

(4) Except for those enrolled in a high deductible health plan qualified under federal law for use with a health savings account,

eligible expenses incurred by a covered person in the last three months of a calendar year, and applied toward a deductible, shall also be applied toward the deductible amount in the next calendar year.

(5) The board may modify cost-sharing as an incentive for enrollees to participate in care management services and other cost-effective programs and policies.

Sec. 32. RCW 48.43.005 and 2006 c 25 s 16 are each amended to read as follows:

Unless otherwise specifically provided, the definitions in this section apply throughout this chapter.

(1) "Adjusted community rate" means the rating method used to establish the premium for health plans adjusted to reflect actuarially demonstrated differences in utilization or cost attributable to geographic region, age, family size, and use of wellness activities.

(2) "Basic health plan" means the plan described under chapter 70.47 RCW, as revised from time to time.

(3) "Basic health plan model plan" means a health plan as required in RCW 70.47.060(2)(e).

(4) "Basic health plan services" means that schedule of covered health services, including the description of how those benefits are to be administered, that are required to be delivered to an enrollee under the basic health plan, as revised from time to time.

(5) "Catastrophic health plan" means:

(a) In the case of a contract, agreement, or policy covering a single enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, one thousand ~~((five))~~ seven hundred fifty dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered benefits of at least three thousand five hundred dollars, both amounts to be adjusted annually by the insurance commissioner; and

(b) In the case of a contract, agreement, or policy covering more than one enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, three thousand five hundred dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered benefits of at least ~~((five))~~ six thousand ~~((five hundred))~~ dollars, both amounts to be adjusted annually by the insurance commissioner; or

(c) Any health benefit plan that provides benefits for hospital inpatient and outpatient services, professional and prescription drugs provided in conjunction with such hospital inpatient and outpatient services, and excludes or substantially limits outpatient physician services and those services usually provided in an office setting.

In July, 2008, and in each July thereafter, the insurance commissioner shall adjust the minimum deductible and out-of-pocket expense required for a plan to qualify as a catastrophic plan to reflect the percentage change in the consumer price index for medical care for a preceding twelve months, as determined by the United States department of labor. The adjusted amount shall apply on the following January 1st.

(6) "Certification" means a determination by a review organization that an admission, extension of stay, or other health care service or procedure has been reviewed and, based on the information provided, meets the clinical requirements for medical necessity, appropriateness, level of care, or effectiveness under the auspices of the applicable health benefit plan.

(7) "Concurrent review" means utilization review conducted during a patient's hospital stay or course of treatment.

(8) "Covered person" or "enrollee" means a person covered by a health plan including an enrollee, subscriber, policyholder, beneficiary of a group plan, or individual covered by any other health plan.

(9) "Dependent" means, at a minimum, the enrollee's legal spouse and unmarried dependent children who qualify for coverage under the enrollee's health benefit plan.

(10) "Eligible employee" means an employee who works on a full-time basis with a normal work week of thirty or more hours. The term includes a self-employed individual, including a sole proprietor, a partner of a partnership, and may include an independent contractor, if the self-employed individual, sole proprietor, partner, or independent contractor is included as an employee under a health benefit plan of a small employer, but does not work less than thirty hours per week and derives at least seventy-five percent of his or her income from a trade or business through which he or she has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form. Persons covered under a health benefit plan pursuant to the consolidated omnibus budget reconciliation act of 1986 shall not be considered eligible employees for purposes of minimum participation requirements of chapter 265, Laws of 1995.

(11) "Emergency medical condition" means the emergent and acute onset of a symptom or symptoms, including severe pain, that would lead a prudent layperson acting reasonably to believe that a health condition exists that requires immediate medical attention, if failure to provide medical attention would result in serious impairment to bodily functions or serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy.

(12) "Emergency services" means otherwise covered health care services medically necessary to evaluate and treat an emergency medical condition, provided in a hospital emergency department.

(13) "Enrollee point-of-service cost-sharing" means amounts paid to health carriers directly providing services, health care providers, or health care facilities by enrollees and may include copayments, coinsurance, or deductibles.

(14) "Grievance" means a written complaint submitted by or on behalf of a covered person regarding: (a) Denial of payment for medical services or nonprovision of medical services included in the covered person's health benefit plan, or (b) service delivery issues other than denial of payment for medical services or nonprovision of medical services, including dissatisfaction with medical care, waiting time for medical services, provider or staff attitude or demeanor, or dissatisfaction with service provided by the health carrier.

(15) "Health care facility" or "facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed under chapter 70.41 RCW, ambulatory diagnostic, treatment, or surgical facilities licensed under chapter 70.41 RCW, drug and alcohol treatment facilities licensed under chapter 70.96A RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations.

(16) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

(17) "Health care service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(18) "Health carrier" or "carrier" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, or a health maintenance organization as defined in RCW 48.46.020.

(19) "Health plan" or "health benefit plan" means any policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care services except the following:

(a) Long-term care insurance governed by chapter 48.84 RCW;

(b) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(c) Coverage supplemental to the coverage provided under chapter 55, Title 10, United States Code;

(d) Limited health care services offered by limited health care service contractors in accordance with RCW 48.44.035;

(e) Disability income;

(f) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;

(g) Workers' compensation coverage;

(h) Accident only coverage;

(i) Specified disease and hospital confinement indemnity when marketed solely as a supplement to a health plan;

(j) Employer-sponsored self-funded health plans;

(k) Dental only and vision only coverage; and

(l) Plans deemed by the insurance commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner.

(20) "Material modification" means a change in the actuarial value of the health plan as modified of more than five percent but less than fifteen percent.

(21) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

(22) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

(23) "Review organization" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, health care service contractor as defined in RCW 48.44.010, or health maintenance organization as defined in RCW 48.46.020, and entities affiliated with, under contract with, or acting on behalf of a health carrier to perform a utilization review.

(24) "Small employer" or "small group" means any person, firm, corporation, partnership, association, political subdivision, sole proprietor, or self-employed individual that is actively engaged in business that, on at least fifty percent of its working days during the preceding calendar quarter, employed at least two but no more than fifty eligible employees, with a normal work week of thirty or more hours, the majority of whom were employed within this state, and is not formed primarily for purposes of buying health insurance and in which a bona fide employer-employee relationship exists. In

determining the number of eligible employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of taxation by this state, shall be considered an employer. Subsequent to the issuance of a health plan to a small employer and for the purpose of determining eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided, a small employer shall continue to be considered a small employer until the plan anniversary following the date the small employer no longer meets the requirements of this definition. A self-employed individual or sole proprietor must derive at least seventy-five percent of his or her income from a trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, schedule C or F, for the previous taxable year except for a self-employed individual or sole proprietor in an agricultural trade or business, who must derive at least fifty-one percent of his or her income from the trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, for the previous taxable year. A self-employed individual or sole proprietor who is covered as a group of one on the day prior to June 10, 2004, shall also be considered a "small employer" to the extent that individual or group of one is entitled to have his or her coverage renewed as provided in RCW 48.43.035(6).

(25) "Utilization review" means the prospective, concurrent, or retrospective assessment of the necessity and appropriateness of the allocation of health care resources and services of a provider or facility, given or proposed to be given to an enrollee or group of enrollees.

(26) "Wellness activity" means an explicit program of an activity consistent with department of health guidelines, such as, smoking cessation, injury and accident prevention, reduction of alcohol misuse, appropriate weight reduction, exercise, automobile and motorcycle safety, blood cholesterol reduction, and nutrition education for the purpose of improving enrollee health status and reducing health service costs.

Sec. 33. RCW 48.41.190 and 1989 c 121 s 10 are each amended to read as follows:

~~((Neither the participation by members, the establishment of rates, forms, or procedures for coverages issued by the pool, nor any other joint or collective action required by this chapter or the state of Washington shall be the basis of any legal action, civil or criminal liability or penalty against the pool, any member of the board of directors, or members of the pool either jointly or separately.)) The pool, members of the pool, board directors of the pool, officers of the pool, employees of the pool, the commissioner, the commissioner's representatives, and the commissioner's employees shall not be civilly or criminally liable and shall not have any penalty or cause of action of any nature arise against them for any action taken or not taken, including any discretionary decision or failure to make a discretionary decision, when the action or inaction is done in good faith and in the performance of the powers and duties under this chapter. Nothing in this section prohibits legal actions against the pool to enforce the pool's statutory or contractual duties or obligations.~~

Sec. 34. RCW 41.05.075 and 2006 c 103 s 3 are each amended to read as follows:

(1) The administrator shall provide benefit plans designed by the board through a contract or contracts with insuring entities, through

self-funding, self-insurance, or other methods of providing insurance coverage authorized by RCW 41.05.140.

(2) The administrator shall establish a contract bidding process that:

(a) Encourages competition among insuring entities;

(b) Maintains an equitable relationship between premiums charged for similar benefits and between risk pools including premiums charged for retired state and school district employees under the separate risk pools established by RCW 41.05.022 and 41.05.080 such that insuring entities may not avoid risk when establishing the premium rates for retirees eligible for medicare;

(c) Is timely to the state budgetary process; and

(d) Sets conditions for awarding contracts to any insuring entity.

(3) The administrator shall establish a requirement for review of utilization and financial data from participating insuring entities on a quarterly basis.

(4) The administrator shall centralize the enrollment files for all employee and retired or disabled school employee health plans offered under chapter 41.05 RCW and develop enrollment demographics on a plan-specific basis.

(5) All claims data shall be the property of the state. The administrator may require of any insuring entity that submits a bid to contract for coverage all information deemed necessary including:

(a) Subscriber or member demographic and claims data necessary for risk assessment and adjustment calculations in order to fulfill the administrator's duties as set forth in this chapter; and

(b) Subscriber or member demographic and claims data necessary to implement performance measures or financial incentives related to performance under subsection (7) of this section.

(6) All contracts with insuring entities for the provision of health care benefits shall provide that the beneficiaries of such benefit plans may use on an equal participation basis the services of practitioners licensed pursuant to chapters 18.22, 18.25, 18.32, 18.53, 18.57, 18.71, 18.74, 18.83, and 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners. However, nothing in this subsection may preclude the administrator from establishing appropriate utilization controls approved pursuant to RCW 41.05.065(2) (a), (b), and (d).

(7) The administrator shall, in collaboration with other state agencies that administer state purchased health care programs, private health care purchasers, health care facilities, providers, and carriers:

(a) Use evidence-based medicine principles to develop common performance measures and implement financial incentives in contracts with insuring entities, health care facilities, and providers that:

(i) Reward improvements in health outcomes for individuals with chronic diseases, increased utilization of appropriate preventive health services, and reductions in medical errors; and

(ii) Increase, through appropriate incentives to insuring entities, health care facilities, and providers, the adoption and use of information technology that contributes to improved health outcomes, better coordination of care, and decreased medical errors;

(b) Through state health purchasing, reimbursement, or pilot strategies, promote and increase the adoption of health information technology systems, including electronic medical records, by hospitals as defined in RCW 70.41.020(4), integrated delivery systems, and providers that:

(i) Facilitate diagnosis or treatment;

(ii) Reduce unnecessary duplication of medical tests;

(iii) Promote efficient electronic physician order entry;

(iv) Increase access to health information for consumers and their providers; and

(v) Improve health outcomes;

(c) Coordinate a strategy for the adoption of health information technology systems using the final health information technology report and recommendations developed under chapter 261, Laws of 2005.

(8) The administrator may permit the Washington state health insurance pool to contract to utilize any network maintained by the authority or any network under contract with the authority.

Sec. 35. RCW 48.43.018 and 2004 c 244 s 3 are each amended to read as follows:

(1) Except as provided in (a) through (e) of this subsection, a health carrier may require any person applying for an individual health benefit plan to complete the standard health questionnaire designated under chapter 48.41 RCW.

(a) If a person is seeking an individual health benefit plan due to his or her change of residence from one geographic area in Washington state to another geographic area in Washington state where his or her current health plan is not offered, completion of the standard health questionnaire shall not be a condition of coverage if application for coverage is made within ninety days of relocation.

(b) If a person is seeking an individual health benefit plan:

(i) Because a health care provider with whom he or she has an established care relationship and from whom he or she has received treatment within the past twelve months is no longer part of the carrier's provider network under his or her existing Washington individual health benefit plan; and

(ii) His or her health care provider is part of another carrier's provider network; and

(iii) Application for a health benefit plan under that carrier's provider network individual coverage is made within ninety days of his or her provider leaving the previous carrier's provider network; then completion of the standard health questionnaire shall not be a condition of coverage.

(c) If a person is seeking an individual health benefit plan due to his or her having exhausted continuation coverage provided under 29 U.S.C. Sec. 1161 et seq., completion of the standard health questionnaire shall not be a condition of coverage if application for coverage is made within ninety days of exhaustion of continuation coverage. A health carrier shall accept an application without a standard health questionnaire from a person currently covered by such continuation coverage if application is made within ninety days prior to the date the continuation coverage would be exhausted and the effective date of the individual coverage applied for is the date the continuation coverage would be exhausted, or within ninety days thereafter.

(d) If a person is seeking an individual health benefit plan due to his or her receiving notice that his or her coverage under a conversion contract is discontinued, completion of the standard health questionnaire shall not be a condition of coverage if application for coverage is made within ninety days of discontinuation of eligibility under the conversion contract. A health carrier shall accept an application without a standard health questionnaire from a person currently covered by such conversion contract if application is made within ninety days prior to the date eligibility under the conversion contract would be discontinued and the effective date of the individual coverage applied for is the date eligibility under the conversion contract would be discontinued, or within ninety days thereafter.

(e) If a person is seeking an individual health benefit plan and, but for the number of persons employed by his or her employer, would have qualified for continuation coverage provided under 29

U.S.C. Sec. 1161 et seq., completion of the standard health questionnaire shall not be a condition of coverage if: (i) Application for coverage is made within ninety days of a qualifying event as defined in 29 U.S.C. Sec. 1163; and (ii) the person had at least twenty-four months of continuous group coverage immediately prior to the qualifying event. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous group coverage if application is made no more than ninety days prior to the date of a qualifying event and the effective date of the individual coverage applied for is the date of the qualifying event, or within ninety days thereafter.

(f) Completion of the standard health questionnaire shall not be a condition of coverage if: (i) Application for coverage is made within ninety days of disenrollment from the basic health plan under chapter 70.47 RCW; and (ii) the person had at least twenty-four months of continuous basic health plan coverage immediately prior to disenrollment. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous basic health plan coverage if application is made no more than ninety days prior to the date of disenrollment and the effective date of the individual coverage applied for is the date of disenrollment, or within ninety days thereafter.

(g) If a person is seeking an individual health benefit plan following enrollment in a plan sponsored by the federal government or church or church-related organization that is exempt from continuation coverage provided under 29 U.S.C. Sec. 1161 et seq., completion of the standard health questionnaire shall not be a condition of coverage if: (i) Application for coverage is made within ninety days of a qualifying event as defined in 29 U.S.C. Sec. 1163; and (ii) the person had at least twenty-four months of continuous group coverage immediately prior to the qualifying event. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous group coverage if application is made no more than ninety days prior to the date of a qualifying event and the effective date of the individual coverage applied for is the date of the qualifying event, or within ninety days thereafter.

(2) If, based upon the results of the standard health questionnaire, the person qualifies for coverage under the Washington state health insurance pool, the following shall apply:

(a) The carrier may decide not to accept the person's application for enrollment in its individual health benefit plan; and

(b) Within fifteen business days of receipt of a completed application, the carrier shall provide written notice of the decision not to accept the person's application for enrollment to both the person and the administrator of the Washington state health insurance pool. The notice to the person shall state that the person is eligible for health insurance provided by the Washington state health insurance pool, and shall include information about the Washington state health insurance pool and an application for such coverage. If the carrier does not provide or postmark such notice within fifteen business days, the application is deemed approved.

(3) If the person applying for an individual health benefit plan:

(a) Does not qualify for coverage under the Washington state health insurance pool based upon the results of the standard health questionnaire; (b) does qualify for coverage under the Washington state health insurance pool based upon the results of the standard health questionnaire and the carrier elects to accept the person for enrollment; or (c) is not required to complete the standard health questionnaire designated under this chapter under subsection (1)(a) or (b) of this section, the carrier shall accept the person for enrollment if he or she resides within the carrier's service area and

provide or assure the provision of all covered services regardless of age, sex, family structure, ethnicity, race, health condition, geographic location, employment status, socioeconomic status, other condition or situation, or the provisions of RCW 49.60.174(2). The commissioner may grant a temporary exemption from this subsection if, upon application by a health carrier, the commissioner finds that the clinical, financial, or administrative capacity to serve existing enrollees will be impaired if a health carrier is required to continue enrollment of additional eligible individuals.

Sec. 36. RCW 70.47.020 and 2005 c 188 s 2 are each amended to read as follows:

As used in this chapter:

(1) "Washington basic health plan" or "plan" means the system of enrollment and payment for basic health care services, administered by the plan administrator through participating managed health care systems, created by this chapter.

(2) "Administrator" means the Washington basic health plan administrator, who also holds the position of administrator of the Washington state health care authority.

(3) "Health coverage tax credit program" means the program created by the Trade Act of 2002 (P.L. 107-210) that provides a federal tax credit that subsidizes private health insurance coverage for displaced workers certified to receive certain trade adjustment assistance benefits and for individuals receiving benefits from the pension benefit guaranty corporation.

(4) "Health coverage tax credit eligible enrollee" means individual workers and their qualified family members who lose their jobs due to the effects of international trade and are eligible for certain trade adjustment assistance benefits; or are eligible for benefits under the alternative trade adjustment assistance program; or are people who receive benefits from the pension benefit guaranty corporation and are at least fifty-five years old.

(5) "Managed health care system" means: (a) Any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, or any combination thereof, that provides directly or by contract basic health care services, as defined by the administrator and rendered by duly licensed providers, to a defined patient population enrolled in the plan and in the managed health care system; or (b) a self-funded or self-insured method of providing insurance coverage to subsidized enrollees provided under RCW 41.05.140 and subject to the limitations under RCW 70.47.100(7).

(6) "Subsidized enrollee" means:

(a) An individual, or an individual plus the individual's spouse or dependent children:

~~((a))~~ (i) Who is not eligible for medicare;

~~((b))~~ (ii) Who is not confined or residing in a government-operated institution, unless he or she meets eligibility criteria adopted by the administrator;

~~((c))~~ (iii) Who is not a full-time student who has received a temporary visa to study in the United States;

~~((d))~~ (iv) Who resides in an area of the state served by a managed health care system participating in the plan;

~~((e))~~ (v) Whose gross family income at the time of enrollment does not exceed two hundred percent of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services; and

~~((f))~~ (vi) Who chooses to obtain basic health care coverage from a particular managed health care system in return for periodic payments to the plan(-);

(b) An individual who meets the requirements in (a)(i) through (iv) and (vi) of this subsection and who is a foster parent licensed under chapter 74.15 RCW and whose gross family income at the time of enrollment does not exceed three hundred percent of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services; and

~~(c) To the extent that state funds are specifically appropriated for this purpose, with a corresponding federal match, ("subsidized enrollee" also means)~~ an individual, or an individual's spouse or dependent children, who meets the requirements in (a)(i) through ~~((d))~~ (iv) and ((f)) (vi) of this subsection and whose gross family income at the time of enrollment is more than two hundred percent, but less than two hundred fifty-one percent, of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services.

(7) "Nonsubsidized enrollee" means an individual, or an individual plus the individual's spouse or dependent children: (a) Who is not eligible for medicare; (b) who is not confined or residing in a government-operated institution, unless he or she meets eligibility criteria adopted by the administrator; (c) who is accepted for enrollment by the administrator as provided in RCW 48.43.018, either because the potential enrollee cannot be required to complete the standard health questionnaire under RCW 48.43.018, or, based upon the results of the standard health questionnaire, the potential enrollee would not qualify for coverage under the Washington state health insurance pool; (d) who resides in an area of the state served by a managed health care system participating in the plan; ~~((d))~~ (e) who chooses to obtain basic health care coverage from a particular managed health care system; and ((e)) (f) who pays or on whose behalf is paid the full costs for participation in the plan, without any subsidy from the plan.

(8) "Subsidy" means the difference between the amount of periodic payment the administrator makes to a managed health care system on behalf of a subsidized enrollee plus the administrative cost to the plan of providing the plan to that subsidized enrollee, and the amount determined to be the subsidized enrollee's responsibility under RCW 70.47.060(2).

(9) "Premium" means a periodic payment, ~~((based upon gross family income))~~ which an individual, their employer or another financial sponsor makes to the plan as consideration for enrollment in the plan as a subsidized enrollee, a nonsubsidized enrollee, or a health coverage tax credit eligible enrollee.

(10) "Rate" means the amount, negotiated by the administrator with and paid to a participating managed health care system, that is based upon the enrollment of subsidized, nonsubsidized, and health coverage tax credit eligible enrollees in the plan and in that system.

Sec. 37. RCW 70.47.060 and 2006 c 343 s 9 are each amended to read as follows:

The administrator has the following powers and duties:

(1) To design and from time to time revise a schedule of covered basic health care services, including physician services, inpatient and outpatient hospital services, prescription drugs and medications, and other services that may be necessary for basic health care. In addition, the administrator may, to the extent that funds are available, offer as basic health plan services chemical dependency services, mental health services and organ transplant services; however, no one service or any combination of these three services shall increase the actuarial value of the basic health plan benefits by more than five percent excluding inflation, as determined by the office of financial management. All subsidized and nonsubsidized enrollees in any participating managed health care system under the Washington basic

health plan shall be entitled to receive covered basic health care services in return for premium payments to the plan. The schedule of services shall emphasize proven preventive and primary health care and shall include all services necessary for prenatal, postnatal, and well-child care. However, with respect to coverage for subsidized enrollees who are eligible to receive prenatal and postnatal services through the medical assistance program under chapter 74.09 RCW, the administrator shall not contract for such services except to the extent that such services are necessary over not more than a one-month period in order to maintain continuity of care after diagnosis of pregnancy by the managed care provider. The schedule of services shall also include a separate schedule of basic health care services for children, eighteen years of age and younger, for those subsidized or nonsubsidized enrollees who choose to secure basic coverage through the plan only for their dependent children. In designing and revising the schedule of services, the administrator shall consider the guidelines for assessing health services under the mandated benefits act of 1984, RCW 48.47.030, and such other factors as the administrator deems appropriate.

(2)(a) To design and implement a structure of periodic premiums due the administrator from subsidized enrollees that is based upon gross family income, giving appropriate consideration to family size and the ages of all family members. The enrollment of children shall not require the enrollment of their parent or parents who are eligible for the plan. The structure of periodic premiums shall be applied to subsidized enrollees entering the plan as individuals pursuant to subsection (11) of this section and to the share of the cost of the plan due from subsidized enrollees entering the plan as employees pursuant to subsection (12) of this section.

(b) To determine the periodic premiums due the administrator from subsidized enrollees under RCW 70.47.020(6)(b). Premiums due for foster parents with gross family income up to two hundred percent of the federal poverty level shall be set at the minimum premium amount charged to enrollees with income below sixty-five percent of the federal poverty level. Premiums due for foster parents with gross family income between two hundred percent and three hundred percent of the federal poverty level shall not exceed one hundred dollars per month.

(c) To determine the periodic premiums due the administrator from nonsubsidized enrollees. Premiums due from nonsubsidized enrollees shall be in an amount equal to the cost charged by the managed health care system provider to the state for the plan plus the administrative cost of providing the plan to those enrollees and the premium tax under RCW 48.14.0201.

((☞)) (d) To determine the periodic premiums due the administrator from health coverage tax credit eligible enrollees. Premiums due from health coverage tax credit eligible enrollees must be in an amount equal to the cost charged by the managed health care system provider to the state for the plan, plus the administrative cost of providing the plan to those enrollees and the premium tax under RCW 48.14.0201. The administrator will consider the impact of eligibility determination by the appropriate federal agency designated by the Trade Act of 2002 (P.L. 107-210) as well as the premium collection and remittance activities by the United States internal revenue service when determining the administrative cost charged for health coverage tax credit eligible enrollees.

((☞)) (e) An employer or other financial sponsor may, with the prior approval of the administrator, pay the premium, rate, or any other amount on behalf of a subsidized or nonsubsidized enrollee, by arrangement with the enrollee and through a mechanism acceptable to the administrator. The administrator shall establish a mechanism

for receiving premium payments from the United States internal revenue service for health coverage tax credit eligible enrollees.

((☞)) (f) To develop, as an offering by every health carrier providing coverage identical to the basic health plan, as configured on January 1, 2001, a basic health plan model plan with uniformity in enrollee cost-sharing requirements.

(3) To evaluate, with the cooperation of participating managed health care system providers, the impact on the basic health plan of enrolling health coverage tax credit eligible enrollees. The administrator shall issue to the appropriate committees of the legislature preliminary evaluations on June 1, 2005, and January 1, 2006, and a final evaluation by June 1, 2006. The evaluation shall address the number of persons enrolled, the duration of their enrollment, their utilization of covered services relative to other basic health plan enrollees, and the extent to which their enrollment contributed to any change in the cost of the basic health plan.

(4) To end the participation of health coverage tax credit eligible enrollees in the basic health plan if the federal government reduces or terminates premium payments on their behalf through the United States internal revenue service.

(5) To design and implement a structure of enrollee cost-sharing due a managed health care system from subsidized, nonsubsidized, and health coverage tax credit eligible enrollees. The structure shall discourage inappropriate enrollee utilization of health care services, and may utilize copayments, deductibles, and other cost-sharing mechanisms, but shall not be so costly to enrollees as to constitute a barrier to appropriate utilization of necessary health care services.

(6) To limit enrollment of persons who qualify for subsidies so as to prevent an overexpenditure of appropriations for such purposes. Whenever the administrator finds that there is danger of such an overexpenditure, the administrator shall close enrollment until the administrator finds the danger no longer exists. Such a closure does not apply to health coverage tax credit eligible enrollees who receive a premium subsidy from the United States internal revenue service as long as the enrollees qualify for the health coverage tax credit program.

(7) To limit the payment of subsidies to subsidized enrollees, as defined in RCW 70.47.020. The level of subsidy provided to persons who qualify may be based on the lowest cost plans, as defined by the administrator.

(8) To adopt a schedule for the orderly development of the delivery of services and availability of the plan to residents of the state, subject to the limitations contained in RCW 70.47.080 or any act appropriating funds for the plan.

(9) To solicit and accept applications from managed health care systems, as defined in this chapter, for inclusion as eligible basic health care providers under the plan for subsidized enrollees, nonsubsidized enrollees, or health coverage tax credit eligible enrollees. The administrator shall endeavor to assure that covered basic health care services are available to any enrollee of the plan from among a selection of two or more participating managed health care systems. In adopting any rules or procedures applicable to managed health care systems and in its dealings with such systems, the administrator shall consider and make suitable allowance for the need for health care services and the differences in local availability of health care resources, along with other resources, within and among the several areas of the state. Contracts with participating managed health care systems shall ensure that basic health plan enrollees who become eligible for medical assistance may, at their option, continue to receive services from their existing providers within the managed health care system if such providers have entered

into provider agreements with the department of social and health services.

(10) To receive periodic premiums from or on behalf of subsidized, nonsubsidized, and health coverage tax credit eligible enrollees, deposit them in the basic health plan operating account, keep records of enrollee status, and authorize periodic payments to managed health care systems on the basis of the number of enrollees participating in the respective managed health care systems.

(11) To accept applications from individuals residing in areas served by the plan, on behalf of themselves and their spouses and dependent children, for enrollment in the Washington basic health plan as subsidized, nonsubsidized, or health coverage tax credit eligible enrollees, to give priority to members of the Washington national guard and reserves who served in Operation Enduring Freedom, Operation Iraqi Freedom, or Operation Noble Eagle, and their spouses and dependents, for enrollment in the Washington basic health plan, to establish appropriate minimum-enrollment periods for enrollees as may be necessary, and to determine, upon application and on a reasonable schedule defined by the authority, or at the request of any enrollee, eligibility due to current gross family income for sliding scale premiums. Funds received by a family as part of participation in the adoption support program authorized under RCW 26.33.320 and 74.13.100 through 74.13.145 shall not be counted toward a family's current gross family income for the purposes of this chapter. When an enrollee fails to report income or income changes accurately, the administrator shall have the authority either to bill the enrollee for the amounts overpaid by the state or to impose civil penalties of up to two hundred percent of the amount of subsidy overpaid due to the enrollee incorrectly reporting income. The administrator shall adopt rules to define the appropriate application of these sanctions and the processes to implement the sanctions provided in this subsection, within available resources. No subsidy may be paid with respect to any enrollee whose current gross family income exceeds twice the federal poverty level or, subject to RCW 70.47.110, who is a recipient of medical assistance or medical care services under chapter 74.09 RCW. If a number of enrollees drop their enrollment for no apparent good cause, the administrator may establish appropriate rules or requirements that are applicable to such individuals before they will be allowed to reenroll in the plan.

(12) To accept applications from business owners on behalf of themselves and their employees, spouses, and dependent children, as subsidized or nonsubsidized enrollees, who reside in an area served by the plan. The administrator may require all or the substantial majority of the eligible employees of such businesses to enroll in the plan and establish those procedures necessary to facilitate the orderly enrollment of groups in the plan and into a managed health care system. The administrator may require that a business owner pay at least an amount equal to what the employee pays after the state pays its portion of the subsidized premium cost of the plan on behalf of each employee enrolled in the plan. Enrollment is limited to those not eligible for medicare who wish to enroll in the plan and choose to obtain the basic health care coverage and services from a managed care system participating in the plan. The administrator shall adjust the amount determined to be due on behalf of or from all such enrollees whenever the amount negotiated by the administrator with the participating managed health care system or systems is modified or the administrative cost of providing the plan to such enrollees changes.

(13) To determine the rate to be paid to each participating managed health care system in return for the provision of covered basic health care services to enrollees in the system. Although the schedule of covered basic health care services will be the same or

actuarially equivalent for similar enrollees, the rates negotiated with participating managed health care systems may vary among the systems. In negotiating rates with participating systems, the administrator shall consider the characteristics of the populations served by the respective systems, economic circumstances of the local area, the need to conserve the resources of the basic health plan trust account, and other factors the administrator finds relevant.

(14) To monitor the provision of covered services to enrollees by participating managed health care systems in order to assure enrollee access to good quality basic health care, to require periodic data reports concerning the utilization of health care services rendered to enrollees in order to provide adequate information for evaluation, and to inspect the books and records of participating managed health care systems to assure compliance with the purposes of this chapter. In requiring reports from participating managed health care systems, including data on services rendered enrollees, the administrator shall endeavor to minimize costs, both to the managed health care systems and to the plan. The administrator shall coordinate any such reporting requirements with other state agencies, such as the insurance commissioner and the department of health, to minimize duplication of effort.

(15) To evaluate the effects this chapter has on private employer-based health care coverage and to take appropriate measures consistent with state and federal statutes that will discourage the reduction of such coverage in the state.

(16) To develop a program of proven preventive health measures and to integrate it into the plan wherever possible and consistent with this chapter.

(17) To provide, consistent with available funding, assistance for rural residents, underserved populations, and persons of color.

(18) In consultation with appropriate state and local government agencies, to establish criteria defining eligibility for persons confined or residing in government-operated institutions.

(19) To administer the premium discounts provided under RCW 48.41.200(3)(a) (i) and (ii) pursuant to a contract with the Washington state health insurance pool.

Sec. 38. RCW 48.43.018 and 2004 c 244 s 3 are each amended to read as follows:

(1) Except as provided in (a) through (e) of this subsection, a health carrier may require any person applying for an individual health benefit plan and the health care authority shall require any person applying for nonsubsidized enrollment in the basic health plan to complete the standard health questionnaire designated under chapter 48.41 RCW.

(a) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee due to his or her change of residence from one geographic area in Washington state to another geographic area in Washington state where his or her current health plan is not offered, completion of the standard health questionnaire shall not be a condition of coverage if application for coverage is made within ninety days of relocation.

(b) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee:

(i) Because a health care provider with whom he or she has an established care relationship and from whom he or she has received treatment within the past twelve months is no longer part of the carrier's provider network under his or her existing Washington individual health benefit plan; and

(ii) His or her health care provider is part of another carrier's or a basic health plan managed care system's provider network; and

(iii) Application for a health benefit plan under that carrier's provider network individual coverage or for basic health plan nonsubsidized enrollment is made within ninety days of his or her provider leaving the previous carrier's provider network; then completion of the standard health questionnaire shall not be a condition of coverage.

(c) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee due to his or her having exhausted continuation coverage provided under 29 U.S.C. Sec. 1161 et seq., completion of the standard health questionnaire shall not be a condition of coverage if application for coverage is made within ninety days of exhaustion of continuation coverage. A health carrier or the health care authority as administrator of basic health plan nonsubsidized coverage shall accept an application without a standard health questionnaire from a person currently covered by such continuation coverage if application is made within ninety days prior to the date the continuation coverage would be exhausted and the effective date of the individual coverage applied for is the date the continuation coverage would be exhausted, or within ninety days thereafter.

(d) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee due to his or her receiving notice that his or her coverage under a conversion contract is discontinued, completion of the standard health questionnaire shall not be a condition of coverage if application for coverage is made within ninety days of discontinuation of eligibility under the conversion contract. A health carrier or the health care authority as administrator of basic health plan nonsubsidized coverage shall accept an application without a standard health questionnaire from a person currently covered by such conversion contract if application is made within ninety days prior to the date eligibility under the conversion contract would be discontinued and the effective date of the individual coverage applied for is the date eligibility under the conversion contract would be discontinued, or within ninety days thereafter.

(e) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee and, but for the number of persons employed by his or her employer, would have qualified for continuation coverage provided under 29 U.S.C. Sec. 1161 et seq., completion of the standard health questionnaire shall not be a condition of coverage if: (i) Application for coverage is made within ninety days of a qualifying event as defined in 29 U.S.C. Sec. 1163; and (ii) the person had at least twenty-four months of continuous group coverage immediately prior to the qualifying event. A health carrier or the health care authority as administrator of basic health plan nonsubsidized coverage shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous group coverage if application is made no more than ninety days prior to the date of a qualifying event and the effective date of the individual coverage applied for is the date of the qualifying event, or within ninety days thereafter.

(2) If, based upon the results of the standard health questionnaire, the person qualifies for coverage under the Washington state health insurance pool, the following shall apply:

(a) The carrier may decide not to accept the person's application for enrollment in its individual health benefit plan and the health care authority, as administrator of basic health plan nonsubsidized coverage, shall not accept the person's application for enrollment as a nonsubsidized enrollee; and

(b) Within fifteen business days of receipt of a completed application, the carrier or the health care authority as administrator

of basic health plan nonsubsidized coverage shall provide written notice of the decision not to accept the person's application for enrollment to both the person and the administrator of the Washington state health insurance pool. The notice to the person shall state that the person is eligible for health insurance provided by the Washington state health insurance pool, and shall include information about the Washington state health insurance pool and an application for such coverage. If the carrier or the health care authority as administrator of basic health plan nonsubsidized coverage does not provide or postmark such notice within fifteen business days, the application is deemed approved.

(3) If the person applying for an individual health benefit plan: (a) Does not qualify for coverage under the Washington state health insurance pool based upon the results of the standard health questionnaire; (b) does qualify for coverage under the Washington state health insurance pool based upon the results of the standard health questionnaire and the carrier elects to accept the person for enrollment; or (c) is not required to complete the standard health questionnaire designated under this chapter under subsection (1)(a) or (b) of this section, the carrier or the health care authority as administrator of basic health plan nonsubsidized coverage, whichever entity administered the standard health questionnaire, shall accept the person for enrollment if he or she resides within the carrier's or the basic health plan's service area and provide or assure the provision of all covered services regardless of age, sex, family structure, ethnicity, race, health condition, geographic location, employment status, socioeconomic status, other condition or situation, or the provisions of RCW 49.60.174(2). The commissioner may grant a temporary exemption from this subsection if, upon application by a health carrier, the commissioner finds that the clinical, financial, or administrative capacity to serve existing enrollees will be impaired if a health carrier is required to continue enrollment of additional eligible individuals.

Sec. 39. RCW 43.70.670 and 2003 c 274 s 2 are each amended to read as follows:

(1) "Human immunodeficiency virus insurance program," as used in this section, means a program that provides health insurance coverage for individuals with human immunodeficiency virus, as defined in RCW 70.24.017(7), who are not eligible for medical assistance programs from the department of social and health services as defined in RCW 74.09.010(8) and meet eligibility requirements established by the department of health.

(2) The department of health may pay for health insurance coverage on behalf of persons with human immunodeficiency virus, who meet department eligibility requirements, and who are eligible for "continuation coverage" as provided by the federal consolidated omnibus budget reconciliation act of 1985, group health insurance policies, or individual policies. ~~((The number of insurance policies supported by this program in the Washington state health insurance pool as defined in RCW 48.41.030(18) shall not grow beyond the July 1, 2003, level.))~~

PREVENTION AND HEALTH PROMOTION

NEW SECTION. **Sec. 40.** (1) The Washington state health care authority, the department of social and health services, the department of labor and industries, and the department of health shall, by September 1, 2007, develop a five-year plan to integrate disease and accident prevention and health promotion into state purchased health programs that they administer by:

(a) Structuring benefits and reimbursements to promote healthy choices and disease and accident prevention;

(b) Encouraging enrollees in state health programs to complete a health assessment, and providing appropriate follow up;

(c) Reimbursing for cost-effective prevention activities; and

(d) Developing prevention and health promotion contracting standards for state programs that contract with health carriers.

(2) The plan shall: (a) Identify any existing barriers and opportunities to support implementation, including needed changes to state or federal law; (b) identify the goals the plan is intended to achieve and how progress towards those goals will be measured and reported; and (c) be submitted to the governor and the legislature upon completion.

Sec. 41. RCW 41.05.540 and 2005 c 360 s 8 are each amended to read as follows:

(1) The health care authority, in coordination with ~~((the department of personnel))~~ the department of health, health plans participating in public employees' benefits board programs, and the University of Washington's center for health promotion, ~~((may create a worksite health promotion program to develop and implement initiatives designed to increase physical activity and promote improved self-care and engagement in health care decision-making among state employees.~~

~~—(2) The health care authority shall report to the governor and the legislature by December 1, 2006, on progress in implementing, and evaluating the results of, the worksite health promotion program)) shall establish and maintain a state employee health program focused on reducing the health risks and improving the health status of state employees, dependents, and retirees enrolled in the public employees' benefits board. The program shall use public and private sector best practices to achieve goals of measurable health outcomes, measurable productivity improvements, positive impact on the cost of medical care, and positive return on investment. The program shall establish standards for health promotion and disease prevention activities, and develop a mechanism to update standards as evidence-based research brings new information and best practices forward.~~

~~(2) The state employee health program shall:~~

~~(a) Provide technical assistance and other services as needed to wellness staff in all state agencies and institutions of higher education;~~

~~(b) Develop effective communication tools and ongoing training for wellness staff;~~

~~(c) Contract with outside vendors for evaluation of program goals;~~

~~(d) Strongly encourage the widespread completion of online health assessment tools for all state employees, dependents, and retirees. The health assessment tool must be voluntary and confidential. Health assessment data and claims data shall be used to:~~

~~(i) Engage state agencies and institutions of higher education in providing evidence-based programs targeted at reducing identified health risks;~~

~~(ii) Guide contracting with third-party vendors to implement behavior change tools for targeted high-risk populations; and~~

~~(iii) Guide the benefit structure for state employees, dependents, and retirees to include covered services and medications known to manage and reduce health risks.~~

~~(3) The health care authority shall report to the legislature in December 2008 and December 2010 on outcome goals for the employee health program.~~

NEW SECTION. Sec. 42. A new section is added to chapter 41.05 RCW to read as follows:

(1) The health care authority through the state employee health program shall implement a state employee health demonstration project. The agencies selected must: (a) Show a high rate of health risk assessment completion; (b) document an infrastructure capable of implementing employee health programs using current and emerging best practices; (c) show evidence of senior management support; and (d) together employ a total of no more than eight thousand employees who are enrolled in health plans of the public employees' benefits board. Demonstration project agencies shall operate employee health programs for their employees in collaboration with the state employee health program.

(2) Agency demonstration project employee health programs:

(a) Shall include but are not limited to the following key elements: Outreach to all staff with efforts made to reach the largest percentage of employees possible; awareness-building information that promotes health; motivational opportunities that encourage employees to improve their health; behavior change opportunities that demonstrate and support behavior change; and tools to improve employee health care decisions;

(b) Must have wellness staff with direct accountability to agency senior management;

(c) Shall initiate and maintain employee health programs using current and emerging best practices in the field of health promotion;

(d) May offer employees such incentives as cash for completing health risk assessments, free preventive screenings, training in behavior change tools, improved nutritional standards on agency campuses, bike racks, walking maps, on-site weight reduction programs, and regular communication to promote personal health awareness.

(3) The state employee health program shall evaluate each of the four programs separately and compare outcomes for each of them with the entire state employee population to assess effectiveness of the programs. Specifically, the program shall measure at least the following outcomes in the demonstration population: The reduction in the percent of the population that is overweight or obese, the reduction in risk factors related to diabetes, the reduction in risk factors related to absenteeism, the reduction in tobacco consumption, and the increase in appropriate use of preventive health services. The state employee health program shall report to the legislature in December 2008 and December 2010 on the demonstration project.

(4) This section expires June 30, 2011.

PRESCRIPTION MONITORING PROGRAM

NEW SECTION. Sec. 43. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Controlled substance" has the meaning provided in RCW 69.50.101.

(2) "Authority" means the Washington state health care authority.

(3) "Patient" means the person or animal who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed.

(4) "Dispenser" means a practitioner or pharmacy that delivers a Schedule II, III, IV, or V controlled substance to the ultimate user, but does not include:

(a) A practitioner or other authorized person who administers, as defined in RCW 69.41.010, a controlled substance; or

(b) A licensed wholesale distributor or manufacturer, as defined in chapter 18.64 RCW, of a controlled substance.

NEW SECTION. Sec. 44. (1) To the extent that funding is available through federal or private grants, or is appropriated by the legislature, the authority shall establish and maintain a web-based interactive prescription monitoring program to monitor the prescribing and dispensing of all Schedules II, III, IV, and V controlled substances and any additional drugs identified by the board of pharmacy as demonstrating a potential for abuse by all professionals licensed to prescribe or dispense such substances in this state. The program shall be designed to improve health care quality and effectiveness by reducing abuse of controlled substances, reducing duplicative prescribing and over-prescribing of controlled substances, and improving controlled substance prescribing practices. As much as possible, the authority should establish a common database with other states.

(2) Except as provided in subsection (5) of this section, each dispenser shall submit to the authority by electronic means information regarding each prescription dispensed for a drug included under subsection (1) of this section. Drug prescriptions for more than immediate one day use should be immediately reported. The information submitted for each prescription shall include, but not be limited to:

- (a) Patient identifier;
- (b) Drug dispensed;
- (c) Date of dispensing;
- (d) Quantity dispensed;
- (e) Prescriber; and
- (f) Dispenser.

(3) Each dispenser shall immediately submit the information in accordance with transmission methods established by the authority.

(4) The authority may issue a waiver to a dispenser that is unable to submit prescription information by electronic means; however, all dispensers shall be required to submit prescription information by electronic means within one year from the effective date of this section. The waiver may permit the dispenser to submit prescription information by paper form or other means, provided all information required in subsection (2) of this section is submitted in this alternative format.

(5) The data submission requirements of this section do not apply to:

(a) Medications provided to patients receiving inpatient services provided at hospitals licensed under chapter 70.41 RCW; or patients of such hospitals receiving services at the clinics, day surgery areas, or other settings within the hospital's license where the medications are administered in single doses; or

(b) Pharmacies operated by the department of corrections for the purpose of providing medications to offenders in prison or in a work release program that is receiving pharmaceutical services from a department of corrections pharmacy.

(6) The authority shall seek federal grants to support the activities described in this act. As state and federal funds are available, the authority shall develop and implement the prescription monitoring program. The authority may not require a practitioner or a pharmacist to pay a fee or tax specifically dedicated to the operation of the system.

(7) To the extent that funding is available through federal or private grants, or is appropriated by the legislature, the authority shall submit an implementation plan to the legislature within six months of receipt of funding under this subsection that builds upon the web-based interactive prescription monitoring program established in this chapter. The plan shall expand the information included in the prescription drug monitoring program to include information related to all legend drugs, as defined in RCW 69.41.010(12), dispensed or

paid for through fee-for-service or managed care contracting, on behalf of persons receiving health care services through state-purchased health care programs administered by the authority, the department of social and health services, the department of labor and industries, and the department of corrections. The implementation plan shall be designed to improve the quality of state-purchased health services by reducing legend drug abuse, reducing duplicative prescribing and over-prescribing of legend drugs, and improving legend drug prescribing practices. The implementation plan shall include mechanisms that will allow persons authorized to prescribe or dispense controlled substances to query the web-based interactive prescription monitoring program and obtain timely information regarding legend drug utilization history of persons for whom they are providing medical or pharmaceutical care when such persons are receiving health services through the programs included in this subsection.

NEW SECTION. Sec. 45. (1) Prescription information submitted to the authority shall be confidential, in compliance with chapter 70.02 RCW and federal health care information privacy requirements and not subject to disclosure, except as provided in subsections (3), (4), and (5) of this section.

(2) The authority shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained is not disclosed to persons except as in subsections (3), (4), and (5) of this section.

(3) The authority shall review the prescription information. The authority shall notify the practitioner and allow explanation or correction of any problem. If there is reasonable cause to believe a violation of law or breach of professional standards may have occurred, the authority shall notify the appropriate law enforcement or professional licensing, certification, or regulatory agency or entity, and provide prescription information required for an investigation.

(4) The authority may provide data in the prescription monitoring program to the following persons:

(a) Persons authorized to prescribe or dispense controlled substances, for the purpose of providing medical or pharmaceutical care for their patients;

(b) An individual who requests the individual's own prescription monitoring information;

(c) Health professional licensing, certification, or regulatory agency or entity;

(d) Appropriate local, state, and federal law enforcement or prosecutorial officials who are engaged in a bona fide specific investigation involving a designated person;

(e) Authorized practitioners of the department of social and health services regarding medicaid program recipients;

(f) The director or director's designee within the department of labor and industries regarding workers' compensation claimants;

(g) Other entities under grand jury subpoena or court order; and

(h) Personnel of the department of health for purposes of administration and enforcement of this chapter or chapter 69.50 RCW.

(5) The authority may provide data to public or private entities for statistical, research, or educational purposes after removing information that could be used to identify individual patients, dispensers, prescribers, and persons who received prescriptions from dispensers.

(6) A dispenser or practitioner acting in good faith is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for requesting, receiving, or using information from the program.

NEW SECTION. Sec. 46. The authority may contract with another agency of this state or with a private vendor, as necessary, to ensure the effective operation of the prescription monitoring program.

Any contractor is bound to comply with the provisions regarding confidentiality of prescription information in section 45 of this act and is subject to the penalties specified in section 48 of this act for unlawful acts.

NEW SECTION. Sec. 47. The authority shall adopt rules to implement this chapter.

NEW SECTION. Sec. 48. (1) A dispenser who knowingly fails to submit prescription monitoring information to the authority as required by this chapter or knowingly submits incorrect prescription information is subject to disciplinary action under chapter 18.130 RCW.

(2) A person authorized to have prescription monitoring information under this chapter who knowingly discloses such information in violation of this chapter is subject to civil penalty.

(3) A person authorized to have prescription monitoring information under this chapter who uses such information in a manner or for a purpose in violation of this chapter is subject to civil penalty.

(4) In accordance with chapter 70.02 RCW and federal health care information privacy requirements, any physician or pharmacist authorized to access a patient's prescription monitoring may discuss or release that information to other health care providers involved with the patient in order to provide safe and appropriate care coordination.

Sec. 49. RCW 42.56.360 and 2006 c 209 s 9 and 2006 c 8 s 112 are each reenacted and amended to read as follows:

(1) The following health care information is exempt from disclosure under this chapter:

(a) Information obtained by the board of pharmacy as provided in RCW 69.45.090;

(b) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420;

(c) Information and documents created specifically for, and collected and maintained by a quality improvement committee under RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640 or 18.20.390, and notifications or reports of adverse events or incidents made under RCW 70.56.020 or 70.56.040, regardless of which agency is in possession of the information and documents;

(d)(i) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310;

(ii) If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this subsection (1)(d) as exempt from disclosure;

(iii) If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality;

(e) Records of the entity obtained in an action under RCW 18.71.300 through 18.71.340;

(f) Except for published statistical compilations and reports relating to the infant mortality review studies that do not identify individual cases and sources of information, any records or documents obtained, prepared, or maintained by the local health department for the purposes of an infant mortality review conducted by the department of health under RCW 70.05.170; ~~(and)~~

(g) Complaints filed under chapter 18.130 RCW after July 27, 1997, to the extent provided in RCW 18.130.095(1); and

information obtained by the health care authority under chapter 41.— RCW (sections 43 through 48 of this act).

(2) Chapter 70.02 RCW applies to public inspection and copying of health care information of patients.

STRATEGIC HEALTH PLANNING

NEW SECTION. Sec. 50. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Health care provider" means an individual who holds a license issued by a disciplining authority identified in RCW 18.130.040 and who practices his or her profession in a health care facility or provides a health service.

(2) "Health facility" or "facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers, ambulatory diagnostic, treatment, or surgical facilities, drug and alcohol treatment facilities licensed under chapter 70.96A RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision, including a public hospital district, or instrumentality of the state and such other facilities as required by federal law and implementing regulations.

(3) "Health service" or "service" means that service, including primary care service, offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(4) "Health service area" means a geographic region appropriate for effective health planning that includes a broad range of health services.

(5) "Office" means the office of financial management.

(6) "Strategy" means the statewide health resources strategy.

NEW SECTION. Sec. 51. (1) The office shall serve as a coordinating body for public and private efforts to improve quality in health care, promote cost-effectiveness in health care, and plan health facility and health service availability. In addition, the office shall facilitate access to health care data collected by public and private organizations as needed to conduct its planning responsibilities.

(2) The office shall:

(a) Conduct strategic health planning activities related to the preparation of the strategy, as specified in this chapter;

(b) Develop a computerized system for accessing, analyzing, and disseminating data relevant to strategic health planning responsibilities. The office may contract with an organization to

create the computerized system capable of meeting the needs of the office;

(c) Maintain access to deidentified data collected and stored by any public and private organizations as necessary to support its planning responsibilities, including state-purchased health care program data, hospital discharge data, and private efforts to collect utilization and claims-related data. The office is authorized to enter into any data sharing agreements and contractual arrangements necessary to obtain data or to distribute data. Among the sources of deidentified data that the office may access are any databases established pursuant to the recommendations of the health information infrastructure advisory board established by chapter 261, Laws of 2005. The office may store limited data sets as necessary to support its activities. Unless specifically authorized, the office shall not collect data directly from the records of health care providers and health care facilities, but shall make use of databases that have already collected such information; and

(d) Conduct research and analysis or arrange for research and analysis projects to be conducted by public or private organizations to further the purposes of the strategy.

(3) The office shall establish a technical advisory committee to assist in the development of the strategy. Members of the committee shall include health economists, health planners, representatives of government and nongovernment health care purchasers, representatives of state agencies that use or regulate entities with an interest in health planning, representatives of acute care facilities, representatives of long-term care facilities, representatives of community-based long-term care providers, representatives of health care providers, a representative of one or more federally recognized Indian tribes, and representatives of health care consumers. The committee shall include members with experience in the provision of health services to rural communities.

NEW SECTION. Sec. 52. (1) The office, in consultation with the technical advisory committee established under section 51 of this act, shall develop a statewide health resources strategy. The strategy shall establish statewide health planning policies and goals related to the availability of health care facilities and services, quality of care, and cost of care. The strategy shall identify needs according to geographic regions suitable for comprehensive health planning as designated by the office.

(2) The development of the strategy shall consider the following general goals and principles:

(a) That excess capacity of health services and facilities place considerable economic burden on the public who pay for the construction and operation of these facilities as patients, health insurance purchasers, carriers, and taxpayers; and

(b) That the development and ongoing maintenance of current and accurate health care information and statistics related to cost and quality of health care, as well as projections of need for health facilities and services, are essential to effective strategic health planning.

(3) The strategy, with public input by health service areas, shall include:

(a) A health system assessment and objectives component that:

(i) Describes state and regional population demographics, health status indicators, and trends in health status and health care needs; and

(ii) Identifies key policy objectives for the state health system related to access to care, health outcomes, quality, and cost-effectiveness;

(b) A health care facilities and services plan that shall assess the demand for health care facilities and services to inform state health planning efforts and direct certificate of need determinations, for those facilities and services subject to certificate of need as provided in chapter 70.38 RCW. The plan shall include:

(i) An inventory of each geographic region's existing health care facilities and services;

(ii) Projections of need for each category of health care facility and service, including those subject to certificate of need;

(iii) Policies to guide the addition of new or expanded health care facilities and services to promote the use of quality, evidence-based, cost-effective health care delivery options, including any recommendations for criteria, standards, and methods relevant to the certificate of need review process; and

(iv) An assessment of the availability of health care providers, public health resources, transportation infrastructure, and other considerations necessary to support the needed health care facilities and services in each region;

(c) A health care data resource plan that identifies data elements necessary to properly conduct planning activities and to review certificate of need applications, including data related to inpatient and outpatient utilization and outcomes information, and financial and utilization information related to charity care, quality, and cost. The plan shall inventory existing data resources, both public and private, that store and disclose information relevant to the health planning process, including information necessary to conduct certificate of need activities pursuant to chapter 70.38 RCW. The plan shall identify any deficiencies in the inventory of existing data resources and the data necessary to conduct comprehensive health planning activities. The plan may recommend that the office be authorized to access existing data sources and conduct appropriate analyses of such data or that other agencies expand their data collection activities as statutory authority permits. The plan may identify any computing infrastructure deficiencies that impede the proper storage, transmission, and analysis of health planning data. The plan shall provide recommendations for increasing the availability of data related to health planning to provide greater community involvement in the health planning process and consistency in data used for certificate of need applications and determinations;

(d) An assessment of emerging trends in health care delivery and technology as they relate to access to health care facilities and services, quality of care, and costs of care. The assessment shall recommend any changes to the scope of health care facilities and services covered by the certificate of need program that may be warranted by these emerging trends. In addition, the assessment may recommend any changes to criteria used by the department to review certificate of need applications, as necessary;

(e) A rural health resource plan to assess the availability of health resources in rural areas of the state, assess the unmet needs of these communities, and evaluate how federal and state reimbursement policies can be modified, if necessary, to more efficiently and effectively meet the health care needs of rural communities. The plan shall consider the unique health care needs of rural communities, the adequacy of the rural health workforce, and transportation needs for accessing appropriate care.

(4) The office shall submit the initial strategy to the governor by January 1, 2010. Every two years the office shall submit an updated strategy. The health care facilities and services plan as it pertains to a distinct geographic planning region may be updated by individual categories on a rotating, biannual schedule.

(5) The office shall hold at least one public hearing and allow opportunity to submit written comments prior to the issuance of the

initial strategy or an updated strategy. A public hearing shall be held prior to issuing a draft of an updated health care facilities and services plan, and another public hearing shall be held before final adoption of an updated health care facilities and services plan. Any hearing related to updating a health care facilities and services plan for a specific planning region shall be held in that region with sufficient notice to the public and an opportunity to comment.

NEW SECTION. Sec. 53. The office shall submit the strategy to the department of health to direct its activities related to the certificate of need review program under chapter 70.38 RCW. As the health care facilities and services plan is updated for any specific geographic planning region, the office shall submit that plan to the department of health to direct its activities related to the certificate of need review program under chapter 70.38 RCW. The office shall not issue determinations of the merits of specific project proposals submitted by applicants for certificates of need.

NEW SECTION. Sec. 54. (1) The office may respond to requests for data and other information from its computerized system for special studies and analysis consistent with requirements for confidentiality of patient, provider, and facility-specific records. The office may require requestors to pay any or all of the reasonable costs associated with such requests that might be approved.

(2) Data elements related to the identification of individual patient's, provider's, and facility's care outcomes are confidential, are exempt from RCW 42.56.030 through 42.56.570 and 42.17.350 through 42.17.450, and are not subject to discovery by subpoena or admissible as evidence.

Sec. 55. RCW 70.38.015 and 1989 1st ex.s. c 9 s 601 are each amended to read as follows:

It is declared to be the public policy of this state:

(1) That strategic health planning efforts must be supported by appropriately tailored regulatory activities that can effectuate the goals and principles of the statewide health resources strategy developed pursuant to chapter 43.-- RCW (sections 50 through 54 of this act). The implementation of the strategy can promote, maintain, and assure the health of all citizens in the state, provide accessible health services, health manpower, health facilities, and other resources while controlling increases in costs, and recognize prevention as a high priority in health programs. ~~((is essential to the health, safety, and welfare of the people of the state. Health planning should be responsive to changing health and social needs and conditions)).~~ Involvement in health planning from both consumers and providers throughout the state should be encouraged;

(2) ~~((That the development of health services and resources, including the construction, modernization, and conversion of health facilities, should be accomplished in a planned, orderly fashion, consistent with identified priorities and without unnecessary duplication or fragmentation))~~ That the certificate of need program is a component of a health planning regulatory process that is consistent with the statewide health resources strategy and public policy goals that are clearly articulated and regularly updated;

(3) That the development and maintenance of adequate health care information, statistics and projections of need for health facilities and services is essential to effective health planning and resources development;

(4) That the development of nonregulatory approaches to health care cost containment should be considered, including the strengthening of price competition; and

(5) That health planning should be concerned with public health and health care financing, access, and quality, recognizing their close interrelationship and emphasizing cost control of health services, including cost-effectiveness and cost-benefit analysis.

NEW SECTION. Sec. 56. (1) For the purposes of this section and RCW 70.38.015 and 70.38.135, "statewide health resource strategy" or "strategy" means the statewide health resource strategy developed by the office of financial management pursuant to chapter 43.-- RCW (sections 50 through 54 of this act).

(2) Effective January 1, 2010, for those facilities and services covered by the certificate of need programs, certificate of need determinations must be consistent with the statewide health resources strategy developed pursuant to section 52 of this act, including any health planning policies and goals identified in the statewide health resources strategy in effect at the time of application. The department may waive specific terms of the strategy if the applicant demonstrates that consistency with those terms will create an undue burden on the population that a particular project would serve, or in emergency circumstances which pose a threat to public health.

Sec. 57. RCW 70.38.135 and 1989 1st ex.s. c 9 s 607 are each amended to read as follows:

The secretary shall have authority to:

(1) Provide when needed temporary or intermittent services of experts or consultants or organizations thereof, by contract, when such services are to be performed on a part time or fee-for-service basis;

(2) Make or cause to be made such on-site surveys of health care or medical facilities as may be necessary for the administration of the certificate of need program;

(3) Upon review of recommendations, if any, from the board of health or the office of financial management as contained in the Washington health resources strategy:

(a) Promulgate rules under which health care facilities providers doing business within the state shall submit to the department such data related to health and health care as the department finds necessary to the performance of its functions under this chapter;

(b) Promulgate rules pertaining to the maintenance and operation of medical facilities which receive federal assistance under the provisions of Title XVI;

(c) Promulgate rules in implementation of the provisions of this chapter, including the establishment of procedures for public hearings for predecisions and post-decisions on applications for certificate of need;

(d) Promulgate rules providing circumstances and procedures of expedited certificate of need review if there has not been a significant change in existing health facilities of the same type or in the need for such health facilities and services;

(4) Grant allocated state funds to qualified entities, as defined by the department, to fund not more than seventy-five percent of the costs of regional planning activities, excluding costs related to review of applications for certificates of need, provided for in this chapter or approved by the department; and

(5) Contract with and provide reasonable reimbursement for qualified entities to assist in determinations of certificates of need.

NEW SECTION. Sec. 58. RCW 70.38.919 (Effective date-- State health plan--1989 1st ex.s. c 9) and 1989 1st ex.s. c 9 s 610 are each repealed.

NEW SECTION. Sec. 59. 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. 60. Sections 43 through 48 of this act constitute a new chapter in Title 41 RCW.

NEW SECTION. Sec. 61. Sections 50 through 54 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 62. Subheadings used in this act are not any part of the law.

NEW SECTION. Sec. 63. Sections 18 through 22 of this act take effect January 1, 2008.

NEW SECTION. Sec. 64. If specific funding for the purposes of the following sections of this act, referencing the section of this act by bill or chapter number and section number, is not provided by June 30, 2007, in the omnibus appropriations act, the section is null and void:

- (1) Section 2 of this act;
- (2) Section 9 of this act (Washington state quality forum);
- (3) Section 10 of this act (health records banking pilot project);
- (4) Section 14 of this act;
- (5) Section 42 of this act (state employee health demonstration project);
- (6) Sections 50 through 57 of this act."

Correct the title.

Signed by Representatives Cody, Chairman; Morrell, Vice Chairman; Barlow; Campbell; Green; Pedersen; Schual-Berke and Seaquist.

MINORITY recommendation: Do not pass. Signed by Representatives Hinkle, Ranking Minority Member; Alexander, Assistant Ranking Minority Member; Condotta; Curtis and Moeller.

Referred to Committee on Appropriations.

March 27, 2007

SSB 5967 Prime Sponsor, Senate Committee On Ways & Means: Concerning the sales of vehicles and associated services to nonresidents of Washington. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Hunter, Chairman; Hasegawa, Vice Chairman; Orcutt, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Conway; Ericks; McIntire; Roach and Santos.

Passed to Committee on Rules for second reading.

March 28, 2007

SSB 5987 Prime Sponsor, Senate Committee On Judiciary: Increasing penalties for gang-related offenses. Reported by Committee on Public Safety & Emergency Preparedness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that the people of Washington state face a crisis brought upon by increased gang crime and violence, which is threatening public safety in communities across the state. Those who live in communities where gang membership is on the rise find themselves living with the daily threat of intimidation and harassment. Ordinary citizens are increasingly vulnerable to gang-related crimes such as drug dealing, damage to real property, theft of personal property and automobiles, or even assault, rape, and murder. Even those not directly affected by gang-related crime, share in the indirect costs such as lower property values, higher insurance premiums, and the endangerment of our youth. Moreover, our first responders find themselves increasingly vulnerable to personal injury or death when responding to gang-related crimes such as drug dealing, assault, driving without a license, or attempting to elude a police vehicle.

It is the intent of the legislature to establish a work group to evaluate and make legislative recommendations regarding the problem of gang-related crime in Washington state.

NEW SECTION. Sec. 2. The Washington association of sheriffs and police chiefs is directed to convene a work group to evaluate the problem of gang-related crime in Washington state. Members shall include one member from each of the two largest caucuses in the house of representatives, appointed by the speaker of the house of representatives, one member from each of the two largest caucuses in the senate, appointed by the president of the senate, and representatives of the following, appointed jointly by the president of the senate and the speaker of the house of representatives: The office of the attorney general, local law enforcement, prosecutors and municipal attorneys, criminal defense attorneys, court administrators, prison or detention administrators and probation officers, and experts in gang or delinquency prevention including the governor's juvenile justice advisory committee. The work group shall evaluate and make recommendations regarding additional legislative measures to combat gang-related crime, the creation of a statewide gang information database, possible reforms to the juvenile justice system for gang-related juvenile offenses, best practices for prevention and intervention of youth gang membership, and the adoption of legislation authorizing a civil antigang injunction. The Washington association of sheriffs and police chiefs shall report back to the legislature on its findings and the recommendations of the work group or groups on or before January 1, 2008."

Signed by Representatives O'Brien, Chairman; Hurst, Vice Chairman; Pearson, Ranking Minority Member; Ross, Assistant Ranking Minority Member; Ahern; Goodman and Lovick.

Passed to Committee on Rules for second reading.

March 27, 2007
SB 6075 Prime Sponsor, Senator Haugen: Increasing competitive bid limits for the purchase of materials, equipment, or supplies. Reported by Committee on Local Government

MAJORITY recommendation: Do pass. Signed by Representatives Simpson, Chairman; Eddy, Vice Chairman; Curtis, Ranking Minority Member; Schindler, Assistant Ranking Minority Member; Ross; B. Sullivan and Takko.

Passed to Committee on Rules for second reading.

March 28, 2007
SB 6107 Prime Sponsor, Senator Zarelli: Reviewing pipeline capacity and distribution in southwest Washington. Reported by Committee on Technology, Energy & Communications

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The energy facility site evaluation council shall review the status of pipeline utility corridor capacity and distribution for petroleum in the southwest region of the state. In conducting this study, the council shall, at a minimum, review the following:

(a) Whether pipeline utility corridor constraints exist, and if so, to what extent;

(b) Whether there is adequate pipeline utility corridor capacity in the state to meet existing demand; and

(c) Whether the current pipeline utility corridor system is expected to meet projected demand growth in the southwest region of the state.

(2) The council may also examine pipeline utility corridor capacity and distribution in other areas of the state to the extent that it has an impact on supply to southwest Washington.

(3) In conducting this review, the council shall coordinate, to the extent possible, with any regional pipeline infrastructure studies already being conducted in the southwest region of the state.

(4) The council shall submit its findings to the legislature by December 1, 2007.

(5) For purposes of this section, "council" means the energy facility site evaluation council.

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

Signed by Representatives Morris, Chairman; McCoy, Vice Chairman; Crouse, Ranking Minority Member; McCune, Assistant Ranking Minority Member; Eddy; Ericksen; Hankins; Hudgins; Hurst; Takko and VanDeWege.

Referred to Committee on Appropriations.

March 27, 2007

SSJM 8011 Prime Sponsor, Senate Committee On Early Learning & K-12 Education: Petitioning Congress to raise funding levels of the No Child Left Behind Act. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

On page 3, at the beginning of line 4, insert "WHEREAS, Career and technical education teachers are often hired from industries in which a bachelor's degree is not the preferred level of certification; and

WHEREAS, The Washington State Legislature passed legislation in 2006 that recognizes credit for core academic subjects learned through career and technical education, but if the teacher does not have a bachelor's degree the school district must report them to parents as "not highly qualified," which places these teachers at a disadvantage in school districts; and

WHEREAS, Positive changes in the definition of highly qualified teachers will assist in the awarding of equivalency credits and remove the stigma surrounding industry-certified teachers; and"

Signed by Representatives Quall, Chairman; Barlow, Vice Chairman; Haigh; McDermott; Roach; Santos and P. Sullivan.

MINORITY recommendation: Without recommendation. Signed by Representatives Anderson, Assistant Ranking Minority Member.

Passed to Committee on Rules for second reading.

March 26, 2007
SJR 8212 Prime Sponsor, Senator Hargrove: Revising limitations on use of inmate labor. Reported by Committee on Human Services

MAJORITY recommendation: Do pass. Signed by Representatives Dickerson, Chairman; Roberts, Vice Chairman; Walsh, Assistant Ranking Minority Member; Bailey; Darneille; McCoy and O'Brien.

Passed to Committee on Rules for second reading.

There being no objection, the bills, memorial and resolution listed on the day's committee reports sheet under the fifth order of business were referred to the committees so designated.

There being no objection, the House advanced to the eighth order of business.

There being no objection, the Rules Committee was relieved of the following bills from the draft suspension calendar sheet and the bill was placed on the Second Reading Suspension calendar:

SENATE BILL NO. 5011,
SENATE BILL NO. 5079,
ENGROSSED SENATE BILL NO. 5166,
SUBSTITUTE SENATE BILL NO. 5191,
SENATE BILL NO. 5253,
SENATE BILL NO. 5620,
SUBSTITUTE SENATE BILL NO. 5625,
SENATE BILL NO. 5635,
SUBSTITUTE SENATE BILL NO. 5639,
SUBSTITUTE SENATE BILL NO. 5674,
SUBSTITUTE SENATE BILL NO. 5720,
SENATE BILL NO. 5759,
SUBSTITUTE SENATE BILL NO. 5898,
SUBSTITUTE SENATE BILL NO. 5952,
SENATE BILL NO. 5957,
SENATE JOINT MEMORIAL NO. 8008,

There being no objection, the House advanced to the eleventh order of business.

There being no objection, the House adjourned until 10:00 a.m., March 30, 2007, the 82nd Day of the Regular Session.

FRANK CHOPP, Speaker

RICHARD NAFZIGER, Chief Clerk