

SIXTIETH LEGISLATURE - REGULAR SESSION

NINETY THIRD DAY

House Chamber, Olympia, Tuesday, April 10, 2007

The House was called to order at 10:00 a.m. by the Speaker (Representative Lovick presiding). The Clerk called the roll and a quorum was present.

The flags were escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Benjamin Reinhart and Christopher Shively. The Speaker (Representative Lovick presiding) led the Chamber in the Pledge of Allegiance. Prayer was offered by Reverend Brian Wiele, River Ridge Covenant Church, Olympia.

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

MESSAGE FROM THE SENATE

April 9, 2007

Mr. Speaker:

The President has signed:

SUBSTITUTE SENATE BILL NO. 5078,
 SENATE BILL NO. 5086,
 SUBSTITUTE SENATE BILL NO. 5087,
 SUBSTITUTE SENATE BILL NO. 5118,
 SECOND SUBSTITUTE SENATE BILL NO. 5122,
 SENATE BILL NO. 5134,
 SENATE BILL NO. 5175,
 SUBSTITUTE SENATE BILL NO. 5190,
 SENATE BILL NO. 5199,
 ENGROSSED SENATE BILL NO. 5204,
 SUBSTITUTE SENATE BILL NO. 5242,
 SUBSTITUTE SENATE BILL NO. 5250,
 SENATE BILL NO. 5273,
 SENATE BILL NO. 5398,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5403,
 SENATE BILL NO. 5421,
 SUBSTITUTE SENATE BILL NO. 5554,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5717,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House advanced to the sixth order of business.

SECOND READING

SENATE BILL NO. 6014, By Senators Swecker, Haugen, Keiser, Hatfield, Zarelli, Benton, Hewitt, Stevens, Shin, Marr, Rasmussen, Oemig and Sheldon

Authorizing industrial development on reclaimed surface coal mine sites.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Simpson and Curtis spoke in favor of passage of the bill.

POINT OF PARLIAMENTARY INQUIRY

Representative DeBolt: "Mr. Speaker, House Rule 19 (D) and Article II Section 30 provide that no member shall vote on any question which affects that member privately and particularly.

Senate Bill No. 6014 deals with land that has been reclaimed from a surface coal mine.

Mr. Speaker, while I do not believe that I have a personal interest in Senate Bill No. 6014 of a type which requires that I refrain from voting on the bill, I do have a number of contacts with the parties most involved in the legislation so am going to ask you for a ruling on this matter.

Mr. Speaker, I am employed by the company that proposes to donate the reclaimed land to the Lewis County Economic Development Council. My compensation arrangement with my company is such that I will have no monetary gain or loss based on the passage or failure of this act. Further, no one in my family owns any shares in the company.

I will also disclose that I am a volunteer Board member of the Lewis County Economic Development Council, the group that would receive the donated property. I have no compensation arrangement with the EDC and no ownership interest in any of its assets.

Mr. Speaker is my interest in Senate Bill No. 6014 of such a nature that I am precluded from voting on this bill by either the Constitution or the Rules of this House?

Thank You Mr. Speaker."

SPEAKER'S RULING

Mr. Speaker (Representative Lovick presiding): "Representative DeBolt has asked if he must refrain from

voting on Senate Bill No. 6014 because of his relationship with parties involved in the legislation.

The Washington State Constitution, article 2, section 30, provides that, "A member who has a private interest in any bill or measure proposed or pending before the legislature, shall disclose the fact to the house of which he or she is a member, and shall not vote thereon."

House Rules 19(d) provides that, "No member shall vote on any question which affects that member privately and particularly. A member who has a private interest in any bill or measure proposed or pending before the legislature shall disclose the fact to the house of which he or she is a member, and shall not vote thereon."

Therefore, a legislator shall not vote on legislation where he or she has a private or personal interest which is in conflict with the proper discharge of his or her duties.

Prior rulings from the presiding officer of the House have established that the "private or personal interest" which would preclude a member from voting exists if the member has reason to believe or suspect that he or she will derive a direct monetary gain or suffer a direct monetary loss by reason of his or her official activity, and that this gain or loss does not accrue to the member to a greater extent than to any other member of an affected business, profession, occupation, or group.

Representative DeBolt has stated that he will not derive any monetary gain nor suffer any monetary loss based on the passage or failure of the bill before the body.

Based on these statements, the Speaker finds that Representative DeBolt does not have a private or personal interest" under the Constitution or Rules of this House which would preclude him from voting on the measure."

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 6014.

ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 6014 and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Buri, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Eickmeyer, Ericks, Erickson, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hailey, Haler, Hankins, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko,

Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 98.

SENATE BILL NO. 6014, having received the necessary constitutional majority, was declared passed.

SUBSTITUTE SENATE BILL NO. 5108, By Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators Haugen, Rasmussen, Jacobsen, Shin, Spanel, Swecker, Brandland, Hatfield and Parlette)

Creating the office of farmland preservation.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Appropriations was before the House for purpose of amendment. (For Committee amendment, see Journal, 85th Day, April 2, 2007.)

Representative Curtis moved the adoption of amendment (622) to the committee amendment:

On page 5, after line 36 of the amendment, insert the following: "**Sec. 6.** A new section is added to RCW 90.84 and 1998 c 248 to read as follows: Agricultural land shall not be acquired by a governmental entity for wetland mitigation purposes through eminent domain.

NEW SECTION. Sec. 7. Section 6 of 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."

Renumber the sections consecutively and correct any internal references accordingly.

Correct the title.

Representatives Curtis and Simpson spoke in favor of the adoption of the amendment to the committee amendment.

The amendment to the committee amendment was adopted.

With the consent of the House, amendment (596) was withdrawn.

The committee amendment as amended was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House was placed on final passage.

Representatives B. Sullivan, Kretz, Hinkle and Newhouse spoke in favor of passage of the bill.

Representative Orcutt spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5108, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5108, as amended by the House and the bill passed the House by the following vote: Yeas - 95, Nays - 3, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Buri, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hailey, Haler, Hankins, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Newhouse, O'Brien, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 95.

Voting nay: Representatives Dunn, Orcutt and Schindler - 3.

SUBSTITUTE SENATE BILL NO. 5108, as amended by the House, having received the necessary constitutional majority, was declared passed.

The House resumed consideration of ENGROSSED SUBSTITUTE SENATE BILL NO. 5372 on Second Reading. See Journal, 89th Day, April 6, 2007.)

ENGROSSED SUBSTITUTE SENATE BILL NO. 5372, By Senate Committee on Water, Energy & Telecommunications (originally sponsored by Senators Rockefeller, Swecker, Poulsen, Marr, Keiser, Shin, Kline, McAuliffe, Fraser, Kilmer and Murray; by request of Governor Gregoire)

Creating the Puget Sound partnership.

Representative Bailey withdrew amendment (557).

There being no objection, the committee amendment by the Committee on Appropriations was not adopted.

Representative Upthegrove moved the adoption of amendment (621):

Strike everything after the enacting clause and insert the following:

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

(a) Puget Sound, including Hood Canal, and the waters that flow to it are a national treasure and a unique resource. Residents enjoy a way of life centered around these waters that depends upon clean and healthy marine and freshwater resources.

(b) Puget Sound is in serious decline, and Hood Canal is in a serious crisis. This decline is indicated by loss of and damage to critical habit, rapid decline in species populations, increases in aquatic nuisance species, numerous toxics contaminated sites, urbanization and attendant storm water drainage, closure of beaches to shellfish harvest due to disease risks, low-dissolved oxygen levels causing death of marine life, and other phenomena. If left unchecked, these conditions will worsen.

(c) Puget Sound must be restored and protected in a more coherent and effective manner. The current system is highly fragmented. Immediate and concerted action is necessary by all levels of government working with the public, nongovernmental organizations, and the private sector to ensure a thriving natural system that exists in harmony with a vibrant economy.

(d) Leadership, accountability, government transparency, thoughtful and responsible spending of public funds, and public involvement will be integral to the success of efforts to restore and protect Puget Sound.

(2) The legislature therefore creates a new Puget Sound partnership to coordinate and lead the effort to restore and protect Puget Sound, and intends that all governmental entities, including federal and state agencies, tribes, cities, counties, ports, and special purpose districts, support and help implement the partnership's restoration efforts. The legislature further intends that the partnership will:

(a) Define a strategic action agenda prioritizing necessary actions, both basin-wide and within specific areas, and creating an approach that addresses all of the complex connections among the land, water, web of species, and human needs. The action agenda will be based on science and include clear, measurable goals for the recovery of Puget Sound by 2020;

(b) Determine accountability for performance, oversee the efficiency and effectiveness of money spent, educate and engage the public, and track and report results to the legislature, the governor, and the public;

(c) Not have regulatory authority, nor authority to transfer the responsibility for, or implementation of, any state regulatory program, unless otherwise specifically authorized by the legislature.

(3) It is the goal of the state that the health of Puget Sound be restored by 2020.

Sec. 2. RCW 90.71.010 and 1996 c 138 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) ("Action team" means the Puget Sound water quality action team:

— (2) "Chair" means the chair of the action team:

— (3) "Council" means the Puget Sound council created in RCW 90.71.030:

— (4) "Puget Sound management plan" means the 1994 Puget Sound water quality management plan as it exists June 30, 1996, and as subsequently amended by the action team.

(5) "Support staff" means the staff to the action team.

(6) "Work plan" means the work plan and budget developed by the action team.) "Action agenda" means the comprehensive schedule of projects, programs, and other activities designed to achieve a healthy Puget Sound ecosystem that is authorized and further described in sections 12 and 13 of this act.

(2) "Action area" means the geographic areas delineated as provided in section 8 of this act.

(3) "Benchmarks" means measurable interim milestones or achievements established to demonstrate progress towards a goal, objective, or outcome.

(4) "Board" means the ecosystem coordination board.

(5) "Council" means the leadership council.

(6) "Environmental indicator" means a physical, biological, or chemical measurement, statistic, or value that provides a proximate gauge, or evidence of, the state or condition of Puget Sound.

(7) "Implementation strategies" means the strategies incorporated on a biennial basis in the action agenda developed under section 13 of this act.

(8) "Nearshore" means the area beginning at the crest of coastal bluffs and extending seaward through the marine photics zone, and to the head of tide in coastal rivers and streams. "Nearshore" also means both shoreline and estuaries.

(9) "Panel" means the Puget Sound science panel.

(10) "Partnership" means the Puget Sound partnership.

(11) "Puget Sound" means Puget Sound and related inland marine waters, including all salt waters of the state of Washington inside the international boundary line between Washington and British Columbia, and lying east of the junction of the Pacific Ocean and the Strait of Juan de Fuca, and the rivers and streams draining to Puget Sound as mapped by water resource inventory areas 1 through 19 in WAC 173-500-040 as it exists on the effective date of this section.

(12) "Puget Sound partner" means an entity that has been recognized by the partnership, as provided in section 16 of this act, as having consistently achieved outstanding progress in implementing the 2020 action agenda.

(13) "Watershed groups" means all groups sponsoring or administering watershed programs, including but not limited to local governments, private sector entities, watershed planning units, watershed councils, shellfish protection areas, regional fishery enhancement groups, marine resource committees including those working with the northwest straits commission, nearshore groups, and watershed lead entities.

(14) "Watershed programs" means and includes all watershed-level plans, programs, projects, and activities that relate to or may contribute to the protection or restoration of Puget Sound waters. Such programs include jurisdiction-wide programs regardless of whether more than one watershed is addressed.

NEW SECTION. Sec. 3. PUGET SOUND PARTNERSHIP-- AGENCY CREATED. An agency of state government, to be known as the Puget Sound partnership, is created to oversee the restoration of the environmental health of Puget Sound by 2020. The agency shall consist of a leadership council, an executive director, an ecosystem coordination board, and a Puget Sound science panel.

NEW SECTION. Sec. 4. LEADERSHIP COUNCIL-- -STRUCTURE---PROCEDURES. (1) The partnership shall be led by a leadership council composed of seven members appointed by the governor, with the advice and consent of the senate. The governor shall appoint members who are publicly respected and influential, are

interested in the environmental and economic prosperity of Puget Sound, and have demonstrated leadership qualities. The governor shall designate one of the seven members to serve as chair and a vice-chair shall be selected annually by the membership of the council.

(2) The initial members shall be appointed as follows:

(a) Three of the initial members shall be appointed for a term of two years;

(b) Two of the initial members shall be appointed for a term of three years; and

(c) Two of the initial members shall be appointed for a term of four years.

(3) The initial members' successors shall be appointed for terms of four years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he or she succeeds.

(4) Members of the council are eligible for reappointment.

(5) Any member of the council may be removed by the governor for cause.

(6) Members whose terms expire shall continue to serve until reappointed or replaced by a new member.

(7) A majority of the council constitutes a quorum for the transaction of business.

(8) Council decisions and actions require majority vote approval of all council members.

NEW SECTION. Sec. 5. LEADERSHIP COUNCIL-- POWERS AND DUTIES. (1) The leadership council shall have the power and duty to:

(a) Provide leadership and have responsibility for the functions of the partnership, including adopting, revising, and guiding the implementation of the action agenda, allocating funds for Puget Sound recovery, providing progress and other reports, setting strategic priorities and benchmarks, adopting and applying accountability measures, and making appointments to the board and panel;

(b) Adopt rules, in accordance with chapter 34.05 RCW;

(c) Create subcommittees and advisory committees as appropriate to assist the council;

(d) Enter into, amend, and terminate contracts with individuals, corporations, or research institutions to effectuate the purposes of this chapter;

(e) Make grants to governmental and nongovernmental entities to effectuate the purposes of this chapter;

(f) Receive such gifts, grants, and endowments, in trust or otherwise, for the use and benefit of the partnership to effectuate the purposes of this chapter;

(g) Promote extensive public awareness, education, and participation in Puget Sound protection and recovery;

(h) Work collaboratively with the Hood Canal coordinating council established in chapter 90.88 RCW on Hood Canal-specific issues;

(i) Maintain complete and consolidated financial information to ensure that all funds received and expended to implement the action agenda have been accounted for; and

(j) Such other powers and duties as are necessary and appropriate to carry out the provisions of this chapter.

(2) The council may delegate functions to the chair and to the executive director, however the council may not delegate its decisional authority regarding developing or amending the action agenda.

(3) The council shall work closely with existing organizations and all levels of government to ensure that the action agenda and its

implementation are scientifically sound, efficient, and achieve necessary results to accomplish recovery of Puget Sound to health by 2020.

(4) The council shall support, engage, and foster collaboration among watershed groups to assist in the recovery of Puget Sound.

(5) When working with federally recognized Indian tribes to develop and implement the action agenda, the council shall conform to the procedures and standards required in a government-to-governmental relationship with tribes under the 1989 Centennial Accord between the state of Washington and the sovereign tribal governments in the state of Washington.

(6) Members of the council shall be compensated in accordance with RCW 43.03.220 and be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 6. EXECUTIVE DIRECTOR-- POWERS AND DUTIES. (1) The partnership shall be administered by an executive director who serves as a communication link between all levels of government, the private sector, tribes, nongovernmental organizations, the council, the board, and the panel. The executive director shall be accountable to the council and the governor for effective communication, actions, and results.

(2) The executive director shall be appointed by and serve at the pleasure of the governor, in consultation with the council. The governor shall consider the recommendations of the council when appointing the executive director.

(3) The executive director shall have complete charge of and supervisory powers over the partnership, subject to the guidance from the council.

(4) The executive director shall employ a staff, who shall be state employees under Title 41 RCW.

(5) Upon approval of the council, the executive director may take action to create a private nonprofit entity, which may take the form of a nonprofit corporation, to assist the partnership in restoring Puget Sound by:

(a) Raising money and other resources through charitable giving, donations, and other appropriate mechanisms;

(b) Engaging and educating the public regarding Puget Sound's health, including efforts and opportunities to restore Puget Sound ecosystems; and

(c) Performing other similar activities as directed by the partnership.

NEW SECTION. Sec. 7. ECOSYSTEM COORDINATION BOARD. (1) The council shall convene the ecosystem coordination board not later than October 1, 2007.

(2) The board shall consist of the following:

(a) One representative from the geographic area of each of the action areas specified in section 8 of this act, appointed by the council. The council shall solicit nominations from, at a minimum, counties, cities, and watershed groups;

(b) Two members representing general business interests, one of whom shall represent in-state general small business interests, both appointed by the council;

(c) Two members representing environmental interests, appointed by the council;

(d) Three representatives of tribal governments located in Puget Sound, invited by the governor to participate as members of the board;

(e) One representative each from counties, cities, and port districts, appointed by the council from nominations submitted by statewide associations representing such local governments;

(f) Three representatives of state agencies with environmental management responsibilities in Puget Sound, representing the interests of all state agencies, one of whom shall be the commissioner of public lands or his or her designee; and

(g) Three representatives of federal agencies with environmental management responsibilities in Puget Sound, representing the interests of all federal agencies and invited by the governor to participate as members of the board.

(3) The president of the senate shall appoint two senators, one from each major caucus, as legislative liaisons to the board. The speaker of the house of representatives shall appoint two representatives, one from each major caucus, as legislative liaisons to the board.

(4) The board shall elect one of its members as chair, and one of its members as vice-chair.

(5) The board shall advise and assist the council in carrying out its responsibilities in implementing this chapter, including development and implementation of the action agenda. The board's duties include:

(a) Assisting cities, counties, ports, tribes, watershed groups, and other governmental and private organizations in the compilation of local programs for consideration for inclusion in the action agenda as provided in section 8 of this act;

(b) Upon request of the council, reviewing and making recommendations regarding activities, projects, and programs proposed for inclusion in the action agenda, including assessing existing ecosystem scale management, restoration and protection plan elements, activities, projects, and programs for inclusion in the action agenda;

(c) Seeking public and private funding and the commitment of other resources for plan implementation;

(d) Assisting the council in conducting public education activities regarding threats to Puget Sound and about local implementation strategies to support the action agenda; and

(e) Recruiting the active involvement of and encouraging the collaboration and communication among governmental and nongovernmental entities, the private sector, and citizens working to achieve the recovery of Puget Sound.

(6) Members of the board, except for federal and state employees, shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 8. INTEGRATING WATERSHED PROGRAMS AND ECOSYSTEM SCALE PLANS INTO THE ACTION AGENDA. (1) The partnership shall develop the action agenda in part upon the foundation of existing watershed programs that address or contribute to the health of Puget Sound. To ensure full consideration of these watershed programs in a timely manner to meet the required date for adoption of the action agenda, the partnership shall rely largely upon local watershed groups, tribes, cities, counties, special purpose districts, and the private sector, who are engaged in developing and implementing these programs.

(2) The partnership shall organize this work by working with these groups in the following geographic action areas of Puget Sound, which collectively encompass all of the Puget Sound basin and include the areas draining to the marine waters in these action areas:

(a) Strait of Juan de Fuca;

(b) The San Juan Islands;

(c) Whidbey Island;

(d) North central Puget Sound;

(e) South central Puget Sound;

- (f) South Puget Sound; and
- (g) Hood Canal.

(3) The council shall define the geographic delineations of these action areas based upon the common issues and interests of the entities in these action areas, and upon the characteristics of the Sound's physical structure, and the water flows into and within the Sound.

(4) The executive director, working with the board representatives from each action area, shall invite appropriate tribes, local governments, and watershed groups to convene for the purpose of compiling the existing watershed programs relating or contributing to the health of Puget Sound. The participating groups should work to identify the applicable local plan elements, projects, and programs, together with estimated budget, timelines, and proposed funding sources, that are suitable for adoption into the action agenda. This may include a prioritization among plan elements, projects, and programs.

(5) The partnership may provide assistance to watershed groups in those action areas that are developing and implementing programs included within the action agenda, and to improve coordination among the groups to improve and accelerate the implementation of the action agenda.

(6) The executive director, working with the board, shall also compile and assess ecosystem scale management, restoration, and protection plans for the Puget Sound basin.

(a) At a minimum, the compilation shall include the Puget Sound nearshore estuary project, clean-up plans for contaminated aquatic lands and shorelands, aquatic land management plans, state resource management plans, habitat conservation plans, and recovery plans for salmon, orca, and other species in Puget Sound that are listed under the federal endangered species act.

(b) The board should work to identify and assess applicable ecosystem scale plan elements, projects, and programs, together with estimated budget, timelines, and proposed funding sources, that are suitable for adoption into the action agenda.

(c) When the board identifies conflicts or disputes among ecosystem scale projects or programs, the board may convene the agency managers in an attempt to reconcile the conflicts with the objective of advancing the protection and recovery of Puget Sound.

(d) If it determines that doing so will increase the likelihood of restoring Puget Sound by 2020, the partnership may explore the utility of federal assurances under the endangered species act, 16 U.S.C. Sec. 1531 et seq., and shall confer with the federal services administering that act.

(7) The executive director shall integrate and present the proposed elements from watershed programs and ecosystem-level plans to the council for consideration for inclusion in the action agenda not later than July 1, 2008.

NEW SECTION. Sec. 9. SCIENCE PANEL--CREATED. (1) The council shall appoint a nine-member Puget Sound science panel to provide independent, nonrepresentational scientific advice to the council and expertise in identifying environmental indicators and benchmarks for incorporation into the action agenda.

(2) In establishing the panel, the council shall request the Washington academy of sciences, created in chapter 70.220 RCW, to nominate fifteen scientists with recognized expertise in fields of science essential to the recovery of Puget Sound. Nominees should reflect the full range of scientific and engineering disciplines involved in Puget Sound recovery. At a minimum, the Washington academy of sciences shall consider making nominations from scientists associated with federal, state, and local agencies, tribes, the

business and environmental communities, members of the K-12, college, and university communities, and members of the board. The solicitation should be to all sectors, and candidates may be from all public and private sectors. Persons nominated by the Washington academy of sciences must disclose any potential conflicts of interest, and any financial relationship with any leadership council member, and disclose sources of current financial support and contracts relating to Puget Sound recovery.

(3) The panel shall select a chair and a vice-chair. Panel members shall serve four-year terms, except that the council shall determine initial terms of two, three, and four years to provide for staggered terms. The council shall determine reappointments and select replacements or additional members of the panel. No panel member may serve longer than twelve years.

(4) The executive director shall designate a lead staff scientist to coordinate panel actions, and administrative staff to support panel activities. The legislature intends to provide ongoing funding for staffing of the panel to ensure that it has sufficient capacity to provide independent scientific advice.

(5) The executive director of the partnership and the science panel shall explore a shared state and federal responsibility for the staffing and administration of the panel. In the event that a federally sponsored Puget Sound recovery office is created, the council may propose that such office provide for staffing and administration of the panel.

(6) The panel shall assist the council in developing and revising the action agenda, making recommendations to the action agenda, and making recommendations to the council for updates or revisions.

(7) Members of the panel shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060, and based upon the availability of funds, the council may contract with members of the panel for compensation for their services under chapter 39.29 RCW. If appointees to the panel are employed by the federal, state, tribal, or local governments, the council may enter into interagency personnel agreements.

NEW SECTION. Sec. 10. SCIENCE PANEL--FUNCTIONS AND DUTIES. (1) The panel shall:

(a) Assist the council, board, and executive director in carrying out the obligations of the partnership, including preparing and updating the action agenda;

(b) As provided in section 11 of this act, assist the partnership in developing an ecosystem level strategic science program that:

(i) Addresses monitoring, modeling, data management, and research; and

(ii) Identifies science gaps and recommends research priorities;

(c) Develop and provide oversight of a competitive peer-reviewed process for soliciting, strategically prioritizing, and funding research and modeling projects;

(d) Provide input to the executive director in developing biennial implementation strategies; and

(e) Offer an ecosystem-wide perspective on the science work being conducted in Puget Sound and by the partnership.

(2) The panel should collaborate with other scientific groups and consult other scientists in conducting its work. To the maximum extent possible, the panel should seek to integrate the state-sponsored Puget Sound science program with the Puget Sound science activities of federal agencies, including working toward an integrated research agenda and Puget Sound science work plan.

(3) By July 31, 2008, the panel shall identify environmental indicators measuring the health of Puget Sound, and recommend environmental benchmarks that need to be achieved to meet the goals

of the action agenda. The council shall confer with the panel on incorporating the indicators and benchmarks into the action agenda.

NEW SECTION. Sec. 11. SCIENCE PANEL--PROGRAMS, UPDATES, AND WORK PLANS. (1) The strategic science program shall be developed by the panel with assistance and staff support provided by the executive director. The science program may include:

(a) Continuation of the Puget Sound assessment and monitoring program, as provided in RCW 90.71.060, as well as other monitoring or modeling programs deemed appropriate by the executive director;

(b) Development of a monitoring program, in addition to the provisions of RCW 90.71.060, including baselines, protocols, guidelines, and quantifiable performance measures, to be recommended as an element of the action agenda;

(c) Recommendations regarding data collection and management to facilitate easy access and use of data by all participating agencies and the public; and

(d) A list of critical research needs.

(2) The strategic science program may not become an official document until a majority of the members of the council votes for its adoption.

(3) A Puget Sound science update shall be developed by the panel with assistance and staff support provided by the executive director. The panel shall submit the initial update to the executive director by April 2010, and subsequent updates as necessary to reflect new scientific understandings. The update shall:

(a) Describe the current scientific understanding of various physical attributes of Puget Sound;

(b) Serve as the scientific basis for the selection of environmental indicators measuring the health of Puget Sound; and

(c) Serve as the scientific basis for the status and trends of those environmental indicators.

(4) The executive director shall provide the Puget Sound science update to the Washington academy of sciences, the governor, and appropriate legislative committees, and include:

(a) A summary of information in existing updates; and

(b) Changes adopted in subsequent updates and in the state of the Sound reports produced pursuant to section 19 of this act.

(5) A biennial science work plan shall be developed by the panel, with assistance and staff support provided by the executive director, and approved by the council. The biennial science work plan shall include, at a minimum:

(a) Identification of recommendations from scientific and technical reports relating to Puget Sound;

(b) A description of the Puget Sound science-related activities being conducted by various entities in the region, including studies, models, monitoring, research, and other appropriate activities;

(c) A description of whether the ongoing work addresses the recommendations and, if not, identification of necessary actions to fill gaps;

(d) Identification of specific biennial science work actions to be done over the course of the work plan, and how these actions address science needs in Puget Sound; and

(e) Recommendations for improvements to the ongoing science work in Puget Sound.

NEW SECTION. Sec. 12. ACTION AGENDA--GOALS AND OBJECTIVES. (1) The action agenda shall consist of the goals and objectives in this section, implementation strategies to meet measurable outcomes, benchmarks, and identification of responsible

entities. By 2020, the action agenda shall strive to achieve the following goals:

(a) A healthy human population supported by a healthy Puget Sound that is not threatened by changes in the ecosystem;

(b) A quality of human life that is sustained by a functioning Puget Sound ecosystem;

(c) Healthy and sustaining populations of native species in Puget Sound, including a robust food web;

(d) A healthy Puget Sound where freshwater, estuary, near shore, marine, and upland habitats are protected, restored, and sustained;

(e) An ecosystem that is supported by ground water levels as well as river and stream flow levels sufficient to sustain people, fish, and wildlife, and the natural functions of the environment;

(f) Fresh and marine waters and sediments of a sufficient quality so that the waters in the region are safe for drinking, swimming, shellfish harvest and consumption, and other human uses and enjoyment, and are not harmful to the native marine mammals, fish, birds, and shellfish of the region.

(2) The action agenda shall be developed and implemented to achieve the following objectives:

(a) Protect existing habitat and prevent further losses;

(b) Restore habitat functions and values;

(c) Significantly reduce toxics entering Puget Sound fresh and marine waters;

(d) Significantly reduce nutrients and pathogens entering Puget Sound fresh and marine waters;

(e) Improve water quality and habitat by managing storm water runoff;

(f) Provide water for people, fish and wildlife, and the environment;

(g) Protect ecosystem biodiversity and recover imperiled species; and

(h) Build and sustain the capacity for action.

NEW SECTION. Sec. 13. ACTION AGENDA--DEVELOPMENT AND ELEMENTS. (1) The council shall develop a science-based action agenda that leads to the recovery of Puget Sound by 2020 and achievement of the goals and objectives established in section 12 of this act. The action agenda shall:

(a) Address all geographic areas of Puget Sound including upland areas and tributary rivers and streams that affect Puget Sound;

(b) Describe the problems affecting Puget Sound's health using supporting scientific data, and provide a summary of the historical environmental health conditions of Puget Sound so as to determine past levels of pollution and restorative actions that have established the current health conditions of Puget Sound;

(c) Meet the goals and objectives described in section 12 of this act, including measurable outcomes for each goal and objective specifically describing what will be achieved, how it will be quantified, and how progress towards outcomes will be measured. The action agenda shall include near-term and long-term benchmarks designed to ensure continuous progress needed to reach the goals, objectives, and designated outcomes by 2020. The council shall consult with the panel in developing these elements of the plan;

(d) Identify and prioritize the strategies and actions necessary to restore and protect Puget Sound and to achieve the goals and objectives described in section 12 of this act;

(e) Identify the agency, entity, or person responsible for completing the necessary strategies and actions, and potential sources of funding;

(f) Include prioritized actions identified through the assembled proposals from each of the seven action areas and the identification and assessment of ecosystem scale programs as provided in section 8 of this act;

(g) Include specific actions to address aquatic rehabilitation zone one, as defined in RCW 90.88.010;

(h) Incorporate any additional goals adopted by the council; and

(i) Incorporate appropriate actions to carry out the biennial science work plan created in section 11 of this act.

(2) In developing the action agenda and any subsequent revisions, the council shall, when appropriate, incorporate the following:

(a) Water quality, water quantity, sediment quality, watershed, marine resource, and habitat restoration plans created by governmental agencies, watershed groups, and marine and shoreline groups. The council shall consult with the board in incorporating these plans;

(b) Recovery plans for salmon, orca, and other species in Puget Sound listed under the federal endangered species act;

(c) Existing plans and agreements signed by the governor, the commissioner of public lands, other state officials, or by federal agencies;

(d) Appropriate portions of the Puget Sound water quality management plan existing on the effective date of this section.

(3) Until the action agenda is adopted, the existing Puget Sound management plan and the 2007-09 Puget Sound biennial plan shall remain in effect. The existing Puget Sound management plan shall also continue to serve as the comprehensive conservation and management plan for the purposes of the national estuary program described in section 320 of the federal clean water act, until replaced by the action agenda and approved by the United States environmental protection agency as the new comprehensive conservation and management plan.

(4) The council shall adopt the action agenda by September 1, 2008. The council shall revise the action agenda as needed, and revise the implementation strategies every two years using an adaptive management process informed by tracking actions and monitoring results in Puget Sound. In revising the action agenda and the implementation strategies, the council shall consult the panel and the board and provide opportunity for public review and comment. Biennial updates shall:

(a) Contain a detailed description of prioritized actions necessary in the biennium to achieve the goals, objectives, outcomes, and benchmarks of progress identified in the action agenda;

(b) Identify the agency, entity, or person responsible for completing the necessary action; and

(c) Establish biennial benchmarks for near-term actions.

(5) The action agenda shall be organized and maintained in a single document to facilitate public accessibility to the plan.

NEW SECTION. Sec. 14. DEVELOPMENT OF BIENNIAL BUDGET REQUESTS. (1) State agencies responsible for implementing elements of the action agenda shall:

(a) Provide to the partnership by June 1st of each even-numbered year their estimates of the actions and the budget resources needed for the forthcoming biennium to implement their portion of the action agenda; and

(b) Work with the partnership in the development of biennial budget requests to achieve consistency with the action agenda to be submitted to the governor for consideration in the governor's biennial budget request. The agencies shall seek the concurrence of the

partnership in the proposed funding levels and sources included in this proposed budget.

(2) If a state agency submits an amount different from that developed in subsection (1)(a) of this section as part of its biennial budget request, the partnership and state agency shall jointly identify the differences and the reasons for these differences and present this information to the office of financial management by October 1st of each even-numbered year.

NEW SECTION. Sec. 15. FUNDING FROM PARTNERSHIP--ACCOUNTABILITY. (1) Any funding made available directly to the partnership from the Puget Sound recovery account created in section 23 of this act and used by the partnership for loans, grants, or funding transfers to other entities shall be prioritized according to the action agenda developed pursuant to section 13 of this act.

(2) The partnership shall condition, with interagency agreements, any grants or funding transfers to other entities from the Puget Sound recovery account to ensure accountability in the expenditure of the funds and to ensure that the funds are used by the recipient entity in the manner determined by the partnership to be the most consistent with the priorities of the action agenda. Any conditions placed on federal funding under this section shall incorporate and be consistent with requirements under signed agreements between the entity and the federal government.

(3) If the partnership finds that the provided funding was not used as instructed in the interagency agreement, the partnership may suspend or further condition future funding to the recipient entity.

(4) The partnership shall require any entity that receives funds for implementing the action agenda to publicly disclose and account for expenditure of those funds.

NEW SECTION. Sec. 16. IMPLEMENTATION--FISCAL ACCOUNTABILITY. (1) The legislature intends that fiscal incentives and disincentives be used as accountability measures designed to achieve consistency with the action agenda by:

(a) Ensuring that projects and activities in conflict with the action agenda are not funded;

(b) Aligning environmental investments with strategic priorities of the action agenda; and

(c) Using state grant and loan programs to encourage consistency with the action agenda.

(2) The council shall adopt measures to ensure that funds appropriated for implementation of the action agenda and identified by proviso or specifically referenced in the omnibus appropriations act pursuant to RCW 43.88.030(1)(g) are expended in a manner that will achieve the intended results. In developing such performance measures, the council shall establish criteria for the expenditure of the funds consistent with the responsibilities and timelines under the action agenda, and require reporting and tracking of funds expended. The council may adopt other measures, such as requiring interagency agreements regarding the expenditure of provided or specifically referenced Puget Sound funds.

(3) The partnership shall work with other state agencies providing grant and loan funds or other financial assistance for projects and activities that impact the health of the Puget Sound ecosystem under chapters 43.155, 70.105D, 70.146, 77.85, 79.105, 79A.15, 89.08, and 90.50A RCW to, within the authorities of the programs, develop consistent funding criteria that prohibits funding projects and activities that are in conflict with the action agenda.

(4) The partnership shall develop a process and criteria by which entities that consistently achieve outstanding progress in

implementing the action agenda are designated as Puget Sound partners. State agencies shall work with the partnership to revise their grant, loan, or other financial assistance allocation criteria to create a preference for entities designated as Puget Sound partners for funds allocated to the Puget Sound basin, pursuant to RCW 43.155.070, 70.105D.070, 70.146.070, 77.85.130, 79.105.150, 79A.15.040, 89.08.520, and 90.50A.040. This process shall be developed on a timeline that takes into consideration state grant and loan funding cycles.

(5) Any entity that receives state funds to implement actions required in the action agenda shall report biennially to the council on progress in completing the action and whether expected results have been achieved within the time frames specified in the action agenda.

NEW SECTION. Sec. 17. ACCOUNTABILITY FOR IMPLEMENTATION. (1) The council is accountable for achieving the action agenda. The legislature intends that all governmental entities within Puget Sound will exercise their existing authorities to implement the applicable provisions of the action agenda.

(2) The partnership shall involve the public and implementing entities to develop standards and processes by which the partnership will determine whether implementing entities are taking actions consistent with the action agenda and achieving the outcomes identified in the action agenda. Among these measures, the council may hold management conferences with implementing entities to review and assess performance in undertaking implementation strategies with a particular focus on compliance with and enforcement of existing laws. Where the council identifies an inconsistency with the action agenda, the council shall offer support and assistance to the entity with the objective of remedying the inconsistency. The results of the conferences shall be included in the state of the Sound report required under section 19 of this act.

(3) In the event the council determines that an entity is in substantial noncompliance with the action agenda, it shall provide notice of this finding and supporting information to the entity. The council or executive director shall thereafter meet and confer with the entity to discuss the finding and, if appropriate, develop a corrective action plan. If no agreement is reached, the council shall hold a public meeting to present its findings and the proposed corrective action plan. If the entity is a state agency, the meeting shall include representatives of the governor's office and office of financial management. If the entity is a local government, the meeting shall be held in the jurisdiction and electoral representatives from the jurisdictions shall be invited to attend. If, after this process, the council finds that substantial noncompliance continues, the council shall issue written findings and document its conclusions. The council may recommend to the governor that the entity be ineligible for state financial assistance until the substantial noncompliance is remedied. Instances of noncompliance shall be included in the state of the Sound report required under section 19 of this act.

(4) The council shall provide a forum for addressing and resolving problems, conflicts, or a substantial lack of progress in a specific area that it has identified in the implementation of the action agenda, or that citizens or implementing entities bring to the council. The council may use conflict resolution mechanisms such as but not limited to, technical and financial assistance, facilitated discussions, and mediation to resolve the conflict. Where the parties and the council are unable to resolve the conflict, and the conflict significantly impairs the implementation of the action agenda, the council shall provide its analysis of the conflict and recommendations resolution to the governor, the legislature, and to those entities with jurisdictional authority to resolve the conflict.

(5) When the council or an implementing entity identifies a statute, rule, ordinance or policy that conflicts with or is an impediment to the implementation of the action agenda, or identifies a deficiency in existing statutory authority to accomplish an element of the action agenda, the council shall review the matter with the implementing entities involved. The council shall evaluate the merits of the conflict, impediment, or deficiency, and make recommendations to the legislature, governor, agency, local government or other appropriate entity for addressing and resolving the conflict.

(6) The council may make recommendations to the governor and appropriate committees of the senate and house of representatives for local or state administrative or legislative actions to address barriers it has identified to successfully implementing the action agenda.

NEW SECTION. Sec. 18. LIMITATIONS ON AUTHORITY.

(1) The partnership shall not have regulatory authority nor authority to transfer the responsibility for, or implementation of, any state regulatory program, unless otherwise specifically authorized by the legislature.

(2) The action agenda may not create a legally enforceable duty to review or approve permits, or to adopt plans or regulations. The action agenda may not authorize the adoption of rules under chapter 34.05 RCW creating a legally enforceable duty applicable to the review or approval of permits or to the adoption of plans or regulations. No action of the partnership may alter the forest practices rules adopted pursuant to chapter 76.09 RCW, or any associated habitat conservation plan. Any changes in forest practices identified by the processes established in this chapter as necessary to fully recover the health of Puget Sound by 2020 may only be realized through the processes established in RCW 76.09.370 and other designated processes established in Title 76 RCW. Nothing in this subsection or subsection (1) of this section limits the accountability provisions of this chapter.

(3) Nothing in this chapter limits or alters the existing legal authority of local governments, nor does it create a legally enforceable duty upon local governments. When a local government proposes to take an action inconsistent with the action agenda, it shall inform the council and identify the reasons for taking the action. If a local government chooses to take an action inconsistent with the action agenda or chooses not to take action required by the action agenda, it will be subject to the accountability measures in this chapter which can be used at the discretion of the council.

NEW SECTION. Sec. 19. REPORTS. (1) By September 1st of each even-numbered year beginning in 2008, the council shall provide to the governor and the appropriate fiscal committees of the senate and house of representatives its recommendations for the funding necessary to implement the action agenda in the succeeding biennium. The recommendations shall:

- (a) Identify the funding needed by action agenda element;
- (b) Address funding responsibilities among local, state, and federal governments, as well as nongovernmental funding; and
- (c) Address funding needed to support the work of the partnership, the panel, the ecosystem work group, and entities assisting in coordinating local efforts to implement the plan.

(2) In the 2008 report required under subsection (1) of this section, the council shall include recommendations for projected funding needed through 2020 to implement the action agenda; funding needs for science panel staff; identify methods to secure stable and sufficient funding to meet these needs; and include proposals for new sources of funding to be dedicated to Puget Sound

protection and recovery. In preparing the science panel staffing proposal, the council shall consult with the panel.

(3) By November 1st of each odd-numbered year beginning in 2009, the council shall produce a state of the Sound report that includes, at a minimum:

(a) An assessment of progress by state and nonstate entities in implementing the action agenda, including accomplishments in the use of state funds for action agenda implementation;

(b) A description of actions by implementing entities that are inconsistent with the action agenda and steps taken to remedy the inconsistency;

(c) The comments by the panel on progress in implementing the plan, as well as findings arising from the assessment and monitoring program;

(d) A review of citizen concerns provided to the partnership and the disposition of those concerns;

(e) A review of the expenditures of funds to state agencies for the implementation of programs affecting the protection and recovery of Puget Sound, and an assessment of whether the use of the funds is consistent with the action agenda; and

(f) An identification of all funds provided to the partnership, and recommendations as to how future state expenditures for all entities, including the partnership, could better match the priorities of the action agenda.

(4)(a) The council shall review state programs that fund facilities and activities that may contribute to action agenda implementation. By November 1, 2009, the council shall provide initial recommendations regarding program changes to the governor and appropriate fiscal and policy committees of the senate and house of representatives. By November 1, 2010, the council shall provide final recommendations regarding program changes, including proposed legislation to implement the recommendation, to the governor and appropriate fiscal and policy committees of the senate and house of representatives.

(b) The review in this subsection shall be conducted with the active assistance and collaboration of the agencies administering these programs, and in consultation with local governments and other entities receiving funding from these programs:

(i) The water quality account, chapter 70.146 RCW;

(ii) The water pollution control revolving fund, chapter 90.50A RCW;

(iii) The public works assistance account, chapter 43.155 RCW;

(iv) The aquatic lands enhancement account, RCW 79.105.150;

(v) The state toxics control account and local toxics control account and clean-up program, chapter 70.105D RCW;

(vi) The acquisition of habitat conservation and outdoor recreation land, chapter 79A.15 RCW;

(vii) The salmon recovery funding board, RCW 77.85.110 through 77.85.150;

(viii) The community economic revitalization board, chapter 43.160 RCW;

(ix) Other state financial assistance to water quality-related projects and activities; and

(x) Water quality financial assistance from federal programs administered through state programs or provided directly to local governments in the Puget Sound basin.

(c) The council's review shall include but not be limited to:

(i) Determining the level of funding and types of projects and activities funded through the programs that contribute to implementation of the action agenda;

(ii) Evaluating the procedures and criteria in each program for determining which projects and activities to fund, and their relationship to the goals and priorities of the action agenda;

(iii) Assessing methods for ensuring that the goals and priorities of the action agenda are given priority when program funding decisions are made regarding water quality-related projects and activities in the Puget Sound basin and habitat-related projects and activities in the Puget Sound basin;

(iv) Modifying funding criteria so that projects, programs, and activities that are inconsistent with the action agenda are ineligible for funding;

(v) Assessing ways to incorporate a strategic funding approach for the action agenda within the outcome-focused performance measures required by RCW 43.41.270 in administering natural resource-related and environmentally based grant and loan programs.

NEW SECTION. Sec. 20. BASIN-WIDE RESTORATION PROGRESS. By December 1, 2010, and subject to available funding, the Washington academy of sciences shall conduct an assessment of basin-wide restoration progress. The assessment shall include, but not be limited to, a determination of the extent to which implementation of the action agenda is making progress toward the action agenda goals, and a determination of whether the environmental indicators and benchmarks included in the action agenda accurately measure and reflect progress toward the action agenda goals.

NEW SECTION. Sec. 21. PERFORMANCE AUDIT. (1) The joint legislative audit and review committee shall conduct two performance audits of the partnership, with the first audit to be completed by December 1, 2011, and the second to be completed by December 1, 2016.

(2) The audit shall include but not be limited to:

(a) A determination of the extent to which funds expended by the partnership or provided in biennial budget acts expressly for implementing the action agenda have contributed toward meeting the scientific benchmarks and the recovery goals of the action agenda;

(b) A determination of the efficiency and effectiveness of the partnership's oversight of action agenda implementation, based upon the achievement of the objectives as measured by the established environmental indicators and benchmarks; and

(c) Any recommendations for improvements in the partnership's performance and structure, and to provide accountability for action agenda results by action entities.

(3) The partnership may use the audits as the basis for developing changes to the action agenda, and may submit any recommendations requiring legislative policy or budgetary action to the governor and to the appropriate committees of the senate and house of representatives.

Sec. 22. RCW 90.71.060 and 1996 c 138 s 7 are each amended to read as follows:

In addition to other powers and duties specified in this chapter, the ~~((action team shall ensure))~~ panel, with the approval of the council, shall guide the implementation and coordination of ~~((the))~~ a Puget Sound ~~((ambient))~~ assessment and monitoring program ~~((established in the Puget Sound management plan. The program shall include, at a minimum:~~

~~—(1) A research program, including but not limited to methods to provide current research information to managers and scientists, and to establish priorities based on the needs of the action team;~~

~~(2) A monitoring program, including baselines, protocols, guidelines, and quantifiable performance measures. In consultation with state agencies, local and tribal governments, and other public and private interests, the action team shall develop and track quantifiable performance measures that can be used by the governor and the legislature to assess the effectiveness over time of programs and actions initiated under the plan to improve and protect Puget Sound water quality and biological resources. The performance measures shall be developed by June 30, 1997. The performance measures shall include, but not be limited to a methodology to track the progress of: Fish and wildlife habitat; sites with sediment contamination; wetlands; shellfish beds; and other key indicators of Puget Sound health. State agencies shall assist the action team in the development and tracking of these performance measures. The performance measures may be limited to a selected geographic area).~~

NEW SECTION. Sec. 23. PUGET SOUND RECOVERY ACCOUNT. The Puget Sound recovery account is created in the state treasury. To the account shall be deposited such funds as the legislature directs or appropriates to the account. Federal grants, gifts, or other financial assistance received by the Puget Sound partnership and other state agencies from nonstate sources for the specific purpose of recovering Puget Sound may be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used for the protection and recovery of Puget Sound.

Sec. 24. RCW 43.155.070 and 2001 c 131 s 5 are each amended to read as follows:

(1) To qualify for loans or pledges under this chapter the board must determine that a local government meets all of the following conditions:

(a) The city or county must be imposing a tax under chapter 82.46 RCW at a rate of at least one-quarter of one percent;

(b) The local government must have developed a capital facility plan; and

(c) The local government must be using all local revenue sources which are reasonably available for funding public works, taking into consideration local employment and economic factors.

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 must have adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving a loan or loan guarantee under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 which has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 is not prohibited from receiving a loan or loan guarantee under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before submitting a request for a loan or loan guarantee.

(3) In considering awarding loans for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, the board shall consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is

located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

(4) The board shall develop a priority process for public works projects as provided in this section. The intent of the priority process is to maximize the value of public works projects accomplished with assistance under this chapter. The board shall attempt to assure a geographical balance in assigning priorities to projects. The board shall consider at least the following factors in assigning a priority to a project:

(a) Whether the local government receiving assistance has experienced severe fiscal distress resulting from natural disaster or emergency public works needs;

(b) Except as otherwise conditioned by section 25 of this act, whether the entity receiving assistance is a Puget Sound partner, as defined in RCW 90.71.010:

(c) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under section 13 of this act;

(d) Whether the project is critical in nature and would affect the health and safety of a great number of citizens;

~~((e))~~ (e) The cost of the project compared to the size of the local government and amount of loan money available;

~~((f))~~ (f) The number of communities served by or funding the project;

~~((g))~~ (g) Whether the project is located in an area of high unemployment, compared to the average state unemployment;

~~((h))~~ (h) Whether the project is the acquisition, expansion, improvement, or renovation by a local government of a public water system that is in violation of health and safety standards, including the cost of extending existing service to such a system;

~~((i))~~ (i) The relative benefit of the project to the community, considering the present level of economic activity in the community and the existing local capacity to increase local economic activity in communities that have low economic growth; and

~~((j))~~ (j) Other criteria that the board considers advisable.

(5) Existing debt or financial obligations of local governments shall not be refinanced under this chapter. Each local government applicant shall provide documentation of attempts to secure additional local or other sources of funding for each public works project for which financial assistance is sought under this chapter.

(6) Before November 1st of each year, the board shall develop and submit to the appropriate fiscal committees of the senate and house of representatives a description of the loans made under RCW 43.155.065, 43.155.068, and subsection (9) of this section during the preceding fiscal year and a prioritized list of projects which are recommended for funding by the legislature, including one copy to the staff of each of the committees. The list shall include, but not be limited to, a description of each project and recommended financing, the terms and conditions of the loan or financial guarantee, the local government jurisdiction and unemployment rate, demonstration of the jurisdiction's critical need for the project and documentation of local funds being used to finance the public works project. The list shall also include measures of fiscal capacity for each jurisdiction recommended for financial assistance, compared to authorized limits and state averages, including local government sales taxes; real estate excise taxes; property taxes; and charges for or taxes on sewerage, water, garbage, and other utilities.

(7) The board shall not sign contracts or otherwise financially obligate funds from the public works assistance account before the legislature has appropriated funds for a specific list of public works projects. The legislature may remove projects from the list

recommended by the board. The legislature shall not change the order of the priorities recommended for funding by the board.

(8) Subsection (7) of this section does not apply to loans made under RCW 43.155.065, 43.155.068, and subsection (9) of this section.

(9) Loans made for the purpose of capital facilities plans shall be exempted from subsection (7) of this section.

(10) To qualify for loans or pledges for solid waste or recycling facilities under this chapter, a city or county must demonstrate that the solid waste or recycling facility is consistent with and necessary to implement the comprehensive solid waste management plan adopted by the city or county under chapter 70.95 RCW.

(11) After January 1, 2010, any project designed to address the effects of storm water or wastewater on Puget Sound may be funded under this section only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under section 13 of this act.

NEW SECTION. Sec. 25. A new section is added to chapter 43.155 RCW to read as follows:

In developing a priority process for public works projects under RCW 43.155.070, the board shall give preferences only to Puget Sound partners, as defined in RCW 90.71.010, over other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the action agenda developed by the Puget Sound partnership under section 13 of this act, or for any other reason, shall not be given less preferential treatment than Puget Sound partners.

Sec. 26. RCW 70.146.070 and 1999 c 164 s 603 are each amended to read as follows:

(1) When making grants or loans for water pollution control facilities, the department shall consider the following:

(a) The protection of water quality and public health;

(b) The cost to residential ratepayers if they had to finance water pollution control facilities without state assistance;

(c) Actions required under federal and state permits and compliance orders;

(d) The level of local fiscal effort by residential ratepayers since 1972 in financing water pollution control facilities;

(e) Except as otherwise conditioned by section 27 of this act, whether the entity receiving assistance is a Puget Sound partner, as defined in RCW 90.71.010;

(f) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under section 13 of this act;

(g) The extent to which the applicant county or city, or if the applicant is another public body, the extent to which the county or city in which the applicant public body is located, has established programs to mitigate nonpoint pollution of the surface or subterranean water sought to be protected by the water pollution control facility named in the application for state assistance; and

~~((f))~~ (h) The recommendations of the Puget Sound ((action team)) partnership created in section 3 of this act and any other board, council, commission, or group established by the legislature or a state agency to study water pollution control issues in the state.

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 may not receive a grant or loan for water pollution control facilities unless it has adopted a comprehensive plan, including a capital facilities plan element, and

development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving a grant or loan under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 which has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 is not prohibited from receiving a grant or loan under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before submitting a request for a grant or loan.

(3) Whenever the department is considering awarding grants or loans for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, it shall consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

(4) After January 1, 2010, any project designed to address the effects of water pollution on Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under section 13 of this act.

NEW SECTION. Sec. 27. A new section is added to chapter 70.146 RCW to read as follows:

When making grants or loans for water pollution control facilities under RCW 70.146.070, the department shall give preference only to Puget Sound partners, as defined in RCW 90.71.010, in comparison to other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the action agenda developed by the Puget Sound partnership under section 13 of this act, or for any other reason, shall not be given less preferential treatment than Puget Sound partners.

Sec. 28. RCW 89.08.520 and 2001 c 227 s 3 are each amended to read as follows:

(1) In administering grant programs to improve water quality and protect habitat, the commission shall:

(a) Require grant recipients to incorporate the environmental benefits of the project into their grant applications (~~and the commission shall utilize~~);

(b) In its grant prioritization and selection process, consider:

(i) The statement of environmental ~~((benefit[s] in its grant prioritization and selection process.))~~ benefits;

(ii) Whether, except as conditioned by section 29 of this act, the applicant is a Puget Sound partner, as defined in RCW 90.71.010; and

(iii) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under section 13 of this act; and

(c) Not provide funding, after January 1, 2010, for projects designed to address the restoration of Puget Sound that are in conflict with the action agenda developed by the Puget Sound partnership under section 13 of this act.

(2)(a) The commission shall also develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the grant program.

(b) The commission shall work with the districts to develop uniform performance measures across participating districts(--) and to the extent possible, the commission should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270. The commission shall consult with affected interest groups in implementing this section.

NEW SECTION. Sec. 29. A new section is added to chapter 89.08 RCW to read as follows:

When administering water quality and habitat protection grants under this chapter, the commission shall give preference only to Puget Sound partners, as defined in RCW 90.71.010, in comparison to other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the Puget Sound action agenda developed by the Puget Sound partnership under section 13 of this act, or for any other reason, shall not be given less preferential treatment than Puget Sound partners.

Sec. 30. RCW 70.105D.070 and 2005 c 488 s 926 are each amended to read as follows:

(1) The state toxics control account and the local toxics control account are hereby created in the state treasury.

(2) The following moneys shall be deposited into the state toxics control account: (a) Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-three one-hundredths of one percent; (b) the costs of remedial actions recovered under this chapter or chapter 70.105A RCW; (c) penalties collected or recovered under this chapter; and (d) any other money appropriated or transferred to the account by the legislature. Moneys in the account may be used only to carry out the purposes of this chapter, including but not limited to the following activities:

(i) The state's responsibility for hazardous waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.105 RCW;

(ii) The state's responsibility for solid waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.95 RCW;

(iii) The hazardous waste cleanup program required under this chapter;

(iv) State matching funds required under the federal cleanup law;

(v) Financial assistance for local programs in accordance with chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

(vi) State government programs for the safe reduction, recycling, or disposal of hazardous wastes from households, small businesses, and agriculture;

(vii) Hazardous materials emergency response training;

(viii) Water and environmental health protection and monitoring programs;

(ix) Programs authorized under chapter 70.146 RCW;

(x) A public participation program, including regional citizen advisory committees;

(xi) Public funding to assist potentially liable persons to pay for the costs of remedial action in compliance with cleanup standards under RCW 70.105D.030(2)(e) but only when the amount and terms of such funding are established under a settlement agreement under RCW 70.105D.040(4) and when the director has found that the funding will achieve both (A) a substantially more expeditious or

enhanced cleanup than would otherwise occur, and (B) the prevention or mitigation of unfair economic hardship; and

(xii) Development and demonstration of alternative management technologies designed to carry out the top two hazardous waste management priorities of RCW 70.105.150.

(3) The following moneys shall be deposited into the local toxics control account: Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-seven one-hundredths of one percent.

(a) Moneys deposited in the local toxics control account shall be used by the department for grants or loans to local governments for the following purposes in descending order of priority:

(i) Remedial actions;

(ii) Hazardous waste plans and programs under chapter 70.105 RCW;

(iii) Solid waste plans and programs under chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

(iv) Funds for a program to assist in the assessment and cleanup of sites of methamphetamine production, but not to be used for the initial containment of such sites, consistent with the responsibilities and intent of RCW 69.50.511; and

(v) Cleanup and disposal of hazardous substances from abandoned or derelict vessels, defined for the purposes of this section as vessels that have little or no value and either have no identified owner or have an identified owner lacking financial resources to clean up and dispose of the vessel, that pose a threat to human health or the environment. ~~((For purposes of this subsection (3)(a)(v), "abandoned or derelict vessels" means vessels that have little or no value and either have no identified owner or have an identified owner lacking financial resources to clean up and dispose of the vessel.))~~

(b) Funds for plans and programs shall be allocated consistent with the priorities and matching requirements established in chapters 70.105, 70.95C, 70.95I, and 70.95 RCW, except that any applicant that is a Puget Sound partner, as defined in RCW 90.71.010, along with any project that is referenced in the action agenda developed by the Puget Sound partnership under section 13 of this act, shall, except as conditioned by section 31 of this act, receive priority for any available funding for any grant or funding programs or sources that use a competitive bidding process. ~~((During the 1999-2001 fiscal biennium, moneys in the account may also be used for the following activities: Conducting a study of whether dioxins occur in fertilizers, soil amendments, and soils; reviewing applications for registration of fertilizers; and conducting a study of plant uptake of metals. During the 2005-2007 fiscal biennium, the legislature may transfer from the local toxics control account to the state toxics control account such amounts as specified in the omnibus capital budget bill. During the 2005-2007 fiscal biennium, moneys in the account may also be used for grants to local governments to retrofit public sector diesel equipment and for storm water planning and implementation activities.~~

~~(b))~~ (c) Funds may also be appropriated to the department of health to implement programs to reduce testing requirements under the federal safe drinking water act for public water systems. The department of health shall reimburse the account from fees assessed under RCW 70.119A.115 by June 30, 1995.

(4) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in the state and local toxics control accounts may be spent only after appropriation by statute.

(5) One percent of the moneys deposited into the state and local toxics control accounts shall be allocated only for public participation grants to persons who may be adversely affected by a release or threatened release of a hazardous substance and to not-for-profit

public interest organizations. The primary purpose of these grants is to facilitate the participation by persons and organizations in the investigation and remedying of releases or threatened releases of hazardous substances and to implement the state's solid and hazardous waste management priorities. However, during the 1999-2001 fiscal biennium, funding may not be granted to entities engaged in lobbying activities, and applicants may not be awarded grants if their cumulative grant awards under this section exceed two hundred thousand dollars. No grant may exceed sixty thousand dollars. Grants may be renewed annually. Moneys appropriated for public participation from either account which are not expended at the close of any biennium shall revert to the state toxics control account.

(6) No moneys deposited into either the state or local toxics control account may be used for solid waste incinerator feasibility studies, construction, maintenance, or operation, or, after January 1, 2010, for projects designed to address the restoration of Puget Sound, funded in a competitive grant process, that are in conflict with the action agenda developed by the Puget Sound partnership under section 13 of this act.

(7) The department shall adopt rules for grant or loan issuance and performance.

~~((8) During the 2005-2007 fiscal biennium, the legislature may transfer from the state toxics control account to the water quality account such amounts as reflect the excess fund balance of the fund:))~~

NEW SECTION. Sec. 31. A new section is added to chapter 70.105D RCW to read as follows:

When administering funds under this chapter, the department shall give preference only to Puget Sound partners, as defined in RCW 90.71.010, in comparison to other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the Puget Sound action agenda developed by the Puget Sound partnership under section 13 of this act, or for any other reason, shall not be given less preferential treatment than Puget Sound partners.

Sec. 32. RCW 79.105.150 and 2005 c 518 s 946 and 2005 c 155 s 121 are each reenacted and amended to read as follows:

(1) After deduction for management costs as provided in RCW 79.64.040 and payments to towns under RCW 79.115.150(2), all moneys received by the state from the sale or lease of state-owned aquatic lands and from the sale of valuable material from state-owned aquatic lands shall be deposited in the aquatic lands enhancement account which is hereby created in the state treasury. After appropriation, these funds shall be used solely for aquatic lands enhancement projects; for the purchase, improvement, or protection of aquatic lands for public purposes; for providing and improving access to the lands; and for volunteer cooperative fish and game projects.

(2) In providing grants for aquatic lands enhancement projects, the ~~(department)~~ interagency committee for outdoor recreation shall:

~~(a) Require grant recipients to incorporate the environmental benefits of the project into their grant applications((and the department shall));~~

(b) Utilize the statement of environmental benefits, consideration, except as provided in section 33 of this act, of whether the applicant is a Puget Sound partner, as defined in RCW 90.71.010, and whether a project is referenced in the action agenda developed by the Puget Sound partnership under section 13 of this act, in its

prioritization and selection process(~~(The department shall also)); and~~

(c) Develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the grants.

(3) To the extent possible, the department should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270.

(4) The department shall consult with affected interest groups in implementing this section.

~~((3) During the fiscal biennium ending June 30, 2007, the funds may be appropriated for boating safety, settlement costs for aquatic lands cleanup, and shellfish management, enforcement, and enhancement and assistance to local governments for septic system surveys and data bases:)) (5) After January 1, 2010, any project designed to address the restoration of Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under section 13 of this act.~~

NEW SECTION. Sec. 33. A new section is added to chapter 79.105 RCW to read as follows:

When administering funds under this chapter, the interagency committee for outdoor recreation shall give preference only to Puget Sound partners, as defined in RCW 90.71.010, in comparison to other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the Puget Sound action agenda developed by the Puget Sound partnership under section 13 of this act, or for any other reason, shall not be given less preferential treatment than Puget Sound partners.

Sec. 34. RCW 79A.15.040 and 2005 c 303 s 3 are each amended to read as follows:

(1) Moneys appropriated for this chapter to the habitat conservation account shall be distributed in the following way:

(a) Not less than forty percent through June 30, 2011, at which time the amount shall become forty-five percent, for the acquisition and development of critical habitat;

(b) Not less than thirty percent for the acquisition and development of natural areas;

(c) Not less than twenty percent for the acquisition and development of urban wildlife habitat; and

(d) Not less than ten percent through June 30, 2011, at which time the amount shall become five percent, shall be used by the committee to fund restoration and enhancement projects on state lands. Only the department of natural resources and the department of fish and wildlife may apply for these funds to be used on existing habitat and natural area lands.

(2)(a) In distributing these funds, the committee retains discretion to meet the most pressing needs for critical habitat, natural areas, and urban wildlife habitat, and is not required to meet the percentages described in subsection (1) of this section in any one biennium.

(b) If not enough project applications are submitted in a category within the habitat conservation account to meet the percentages described in subsection (1) of this section in any biennium, the committee retains discretion to distribute any remaining funds to the other categories within the account.

(3) Only state agencies may apply for acquisition and development funds for natural areas projects under subsection (1) (b) of this section.

(4) State and local agencies may apply for acquisition and development funds for critical habitat and urban wildlife habitat projects under subsection (1)(a) and (c) of this section.

(5)(a) Any lands that have been acquired with grants under this section by the department of fish and wildlife are subject to an amount in lieu of real property taxes and an additional amount for control of noxious weeds as determined by RCW 77.12.203.

(b) Any lands that have been acquired with grants under this section by the department of natural resources are subject to payments in the amounts required under the provisions of RCW 79.70.130 and 79.71.130.

(6)(a) Except as otherwise conditioned by section 35 of this act, the committee shall consider the following in determining distribution priority:

(i) Whether the entity applying for funding is a Puget Sound partner, as defined in RCW 90.71.010; and

(ii) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under section 13 of this act.

(7) After January 1, 2010, any project designed to address the restoration of Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under section 13 of this act.

NEW SECTION. Sec. 35. A new section is added to chapter 79A.15 RCW to read as follows:

When administering funds under this chapter, the committee shall give preference only to Puget Sound partners, as defined in RCW 90.71.010, in comparison to other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the Puget Sound action agenda developed by the Puget Sound partnership under section 13 of this act, or for any other reason, shall not be given less preferential treatment than Puget Sound partners.

Sec. 36. RCW 77.85.130 and 2005 c 309 s 8, 2005 c 271 s 1, and 2005 c 257 s 3 are each reenacted and amended to read as follows:

(1) The salmon recovery funding board shall develop procedures and criteria for allocation of funds for salmon habitat projects and salmon recovery activities on a statewide basis to address the highest priorities for salmon habitat protection and restoration. To the extent practicable the board shall adopt an annual allocation of funding. The allocation should address both protection and restoration of habitat, and should recognize the varying needs in each area of the state on an equitable basis. The board has the discretion to partially fund, or to fund in phases, salmon habitat projects. The board may annually establish a maximum amount of funding available for any individual project, subject to available funding. No projects required solely as a mitigation or a condition of permitting are eligible for funding.

(2)(a) In evaluating, ranking, and awarding funds for projects and activities the board shall give preference to projects that:

(i) Are based upon the limiting factors analysis identified under RCW 77.85.060;

(ii) Provide a greater benefit to salmon recovery based upon the stock status information contained in the department of fish and wildlife salmonid stock inventory (SASSI), the salmon and steelhead

habitat inventory and assessment project (SSHIAP), and any comparable science-based assessment when available;

(iii) Will benefit listed species and other fish species;

(iv) Will preserve high quality salmonid habitat; (~~and~~)

(v) Are included in a regional or watershed-based salmon recovery plan that accords the project, action, or area a high priority for funding;

(vi) Are, except as provided in section 37 of this act, sponsored by an entity that is a Puget Sound partner, as defined in RCW 90.71.010; and

(vii) Are projects referenced in the action agenda developed by the Puget Sound partnership under section 13 of this act.

(b) In evaluating, ranking, and awarding funds for projects and activities the board shall also give consideration to projects that:

(i) Are the most cost-effective;

(ii) Have the greatest matched or in-kind funding;

(iii) Will be implemented by a sponsor with a successful record of project implementation; (~~and~~)

(iv) Involve members of the veterans conservation corps established in RCW 43.60A.150; and

(v) Are part of a regionwide list developed by lead entities.

(3) The board may reject, but not add, projects from a habitat project list submitted by a lead entity for funding.

(4) The board shall establish criteria for determining when block grants may be made to a lead entity. The board may provide block grants to the lead entity to implement habitat project lists developed under RCW 77.85.050, subject to available funding. The board shall determine an equitable minimum amount of project funds for each recovery region, and shall distribute the remainder of funds on a competitive basis. The board may also provide block grants to the lead entity or regional recovery organization to assist in carrying out functions described under this chapter. Block grants must be expended consistent with the priorities established for the board in subsection (2) of this section. Lead entities or regional recovery organizations receiving block grants under this subsection shall provide an annual report to the board summarizing how funds were expended for activities consistent with this chapter, including the types of projects funded, project outcomes, monitoring results, and administrative costs.

(5) The board may waive or modify portions of the allocation procedures and standards adopted under this section in the award of grants or loans to conform to legislative appropriations directing an alternative award procedure or when the funds to be awarded are from federal or other sources requiring other allocation procedures or standards as a condition of the board's receipt of the funds. The board shall develop an integrated process to manage the allocation of funding from federal and state sources to minimize delays in the award of funding while recognizing the differences in state and legislative appropriation timing.

(6) The board may award a grant or loan for a salmon recovery project on private or public land when the landowner has a legal obligation under local, state, or federal law to perform the project, when expedited action provides a clear benefit to salmon recovery, and there will be harm to salmon recovery if the project is delayed. For purposes of this subsection, a legal obligation does not include a project required solely as a mitigation or a condition of permitting.

(7) Property acquired or improved by a project sponsor may be conveyed to a federal agency if: (a) The agency agrees to comply with all terms of the grant or loan to which the project sponsor was obligated; or (b) the board approves: (i) Changes in the terms of the grant or loan, and the revision or removal of binding deed of right instruments; and (ii) a memorandum of understanding or similar

document ensuring that the facility or property will retain, to the extent feasible, adequate habitat protections; and (c) the appropriate legislative authority of the county or city with jurisdiction over the project area approves the transfer and provides notification to the board.

(8) After January 1, 2010, any project designed to address the restoration of Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under section 13 of this act.

NEW SECTION. Sec. 37. A new section is added to chapter 77.85 RCW to read as follows:

When administering funds under this chapter, the board shall give preference only to Puget Sound partners, as defined in RCW 90.71.010, in comparison to other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the Puget Sound action agenda developed by the Puget Sound partnership under section 13 of this act, or for any other reason, shall not be given less preferential treatment than Puget Sound partners.

Sec. 38. RCW 90.50A.030 and 1996 c 37 s 4 are each amended to read as follows:

The department ~~((of ecology))~~ shall use the moneys in the water pollution control revolving fund to provide financial assistance as provided in the water quality act of 1987 and as provided in RCW 90.50A.040:

(1) To make loans, on the condition that:

(a) Such loans are made at or below market interest rates, including interest free loans, at terms not to exceed twenty years;

(b) Annual principal and interest payments will commence not later than one year after completion of any project and all loans will be fully amortized not later than twenty years after project completion;

(c) The recipient of a loan will establish a dedicated source of revenue for repayment of loans; and

(d) The fund will be credited with all payments of principal and interest on all loans.

(2) Loans may be made for the following purposes:

(a) To public bodies for the construction or replacement of water pollution control facilities as defined in section 212 of the federal water quality act of 1987;

(b) For the implementation of a management program established under section 319 of the federal water quality act of 1987 relating to the management of nonpoint sources of pollution, subject to the requirements of that act; and

(c) For development and implementation of a conservation and management plan under section 320 of the federal water quality act of 1987 relating to the national estuary program, subject to the requirements of that act.

(3) The department may also use the moneys in the fund for the following purposes:

(a) To buy or refinance the water pollution control facilities' debt obligations of public bodies at or below market rates, if such debt was incurred after March 7, 1985;

(b) To guarantee, or purchase insurance for, public body obligations for water pollution control facility construction or replacement or activities if the guarantee or insurance would improve credit market access or reduce interest rates, or to provide loans to a public body for this purpose;

(c) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the state if the proceeds of the sale of such bonds will be deposited in the fund;

(d) To earn interest on fund accounts; and

(e) To pay the expenses of the department in administering the water pollution control revolving fund according to administrative reserves authorized by federal and state law.

~~((Beginning with the biennium ending June 30, 1997;))~~ The department shall present a biennial progress report on the use of moneys from the account to the ~~((chairs of the senate committee on ways and means and the house of representatives committee on appropriations. The first report is due June 30, 1996, and the report for each succeeding biennium is due December 31 of the odd-numbered year))~~ appropriate committees of the legislature. The report shall consist of a list of each recipient, project description, and amount of the grant, loan, or both.

(5) The department may not use the moneys in the water pollution control revolving fund for grants.

Sec. 39. RCW 90.50A.040 and 1988 c 284 s 5 are each amended to read as follows:

Moneys deposited in the water pollution control revolving fund shall be administered by the department ~~((of ecology)).~~ In administering the fund, the department shall:

(1) Consistent with RCW 90.50A.030 and section 40 of this act, allocate funds for loans in accordance with the annual project priority list in accordance with section 212 of the federal water pollution control act as amended in 1987, and allocate funds under sections 319 and 320 according to the provisions of that act;

(2) Use accounting, audit, and fiscal procedures that conform to generally accepted government accounting standards;

(3) Prepare any reports required by the federal government as a condition to awarding federal capitalization grants;

(4) Adopt by rule any procedures or standards necessary to carry out the provisions of this chapter;

(5) Enter into agreements with the federal environmental protection agency;

(6) Cooperate with local, substate regional, and interstate entities regarding state assessment reports and state management programs related to the nonpoint source management programs as noted in section 319(c) of the federal water pollution control act amendments of 1987 and estuary programs developed under section 320 of that act; ~~((and))~~

(7) Comply with provisions of the water quality act of 1987; and

(8) After January 1, 2010, not provide funding for projects designed to address the restoration of Puget Sound that are in conflict with the action agenda developed by the Puget Sound partnership under section 13 of this act.

NEW SECTION. Sec. 40. A new section is added to chapter 90.50A RCW to read as follows:

(1) In administering the fund, the department shall give priority consideration to:

(a) A public body that is a Puget Sound partner, as defined in RCW 90.71.010; and

(b) A project that is referenced in the action agenda developed by the Puget Sound partnership under section 13 of this act.

(2) When implementing this section, the department shall give preference only to Puget Sound partners, as defined in RCW 90.71.010, in comparison to other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are

not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the Puget Sound action agenda developed under section 13 of this act, or for any other reason, shall not be given less preferential treatment than Puget Sound partners.

NEW SECTION. Sec. 41. TRANSFER OF POWERS, DUTIES, AND FUNCTIONS--REFERENCES TO CHAIR OF THE PUGET SOUND ACTION TEAM. (1) The Puget Sound action team is hereby abolished and its powers, duties, and functions are hereby transferred to the Puget Sound partnership as consistent with this chapter. All references to the chair or the Puget Sound action team in the Revised Code of Washington shall be construed to mean the executive director or the Puget Sound partnership.

(2)(a) All employees of the Puget Sound action team are transferred to the jurisdiction of the Puget Sound partnership.

(b) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the Puget Sound action team shall be delivered to the custody of the Puget Sound partnership. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the Puget Sound action team shall be made available to the Puget Sound partnership. All funds, credits, or other assets held by the Puget Sound action team shall be assigned to the Puget Sound partnership.

(c) Any appropriations made to the Puget Sound action team shall, on the effective date of this section, be transferred and credited to the Puget Sound partnership.

(d) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the Puget Sound action team shall be continued and acted upon by the Puget Sound partnership. All existing contracts and obligations shall remain in full force and shall be performed by the Puget Sound partnership.

(4) The transfer of the powers, duties, functions, and personnel of the Puget Sound action team shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) Nothing contained in this section may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the public employment relations commission as provided by law.

NEW SECTION. Sec. 42. CAPTIONS NOT LAW. Captions used in this chapter are not any part of the law.

Sec. 43. RCW 90.71.100 and 2001 c 273 s 3 are each amended to read as follows:

(1)(a) The ~~((action team))~~ department of health shall ~~((establish~~ ~~⌘))~~ manage the established shellfish - on-site sewage grant program in Puget Sound and for Pacific and Grays Harbor counties. The ~~((action team))~~ department of health shall provide funds to local health jurisdictions to be used as grants or loans to individuals for

improving their on-site sewage systems. The grants or loans may be provided only in areas that have the potential to adversely affect water quality in commercial and recreational shellfish growing areas.

(b) A recipient of a grant or loan shall enter into an agreement with the appropriate local health jurisdiction to maintain the improved on-site sewage system according to specifications required by the local health jurisdiction.

(c) The ~~((action team))~~ department of health shall work closely with local health jurisdictions and ~~((shall endeavor))~~ it shall be the goal of the department of health to attain geographic equity between Grays Harbor, Willapa Bay, and ~~((the))~~ Puget Sound when making funds available under this program.

(d) For the purposes of this subsection, "geographic equity" means issuing on-site sewage grants or loans at a level that matches the funds generated from the oyster reserve lands in that area.

(2) In ~~((the))~~ Puget Sound, the ~~((action team))~~ department of health shall give first priority to areas that are:

(a) Identified as "areas of special concern" under WAC 246-272-01001; ~~((or))~~

(b) Included within a shellfish protection district under chapter 90.72 RCW; or

(c) Identified as a marine recovery area under chapter 70.118A RCW.

(3) In Grays Harbor and Pacific counties, the ~~((action team))~~ department of health shall give first priority to preventing the deterioration of water quality in areas where commercial or recreational shellfish are grown.

(4) The ~~((action team))~~ department of health and each participating local health jurisdiction shall enter into a memorandum of understanding that will establish an applicant income eligibility requirement for individual grant applicants from within the jurisdiction and other mutually agreeable terms and conditions of the grant program.

(5) The ~~((action team))~~ department of health may recover the costs to administer this program not to exceed ten percent of the shellfish - on-site sewage grant program.

(6) ~~((For the 2001-2003 biennium, the action team may use up to fifty percent of the shellfish - on-site sewage grant program funds for grants to local health jurisdictions to establish areas of special concern under WAC 246-272-01001, or for operation and maintenance programs therein, where commercial and recreational uses are present))~~ For the 2007-2009 biennium, from the funds received under this section, Pacific county may transfer up to two hundred thousand dollars to the department of fish and wildlife for research identified by the department of fish and wildlife and the appropriate oyster reserve advisory committee under RCW 77.60.160.

Sec. 44. RCW 77.60.160 and 2001 c 273 s 2 are each amended to read as follows:

(1) The oyster reserve land account is created in the state treasury. All receipts from revenues from the lease of land or sale of shellfish from oyster reserve lands must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only as provided in this section.

(2) Funds in the account shall be used for the purposes provided for in this subsection:

(a) Up to forty percent for the management expenses incurred by the department that are directly attributable to the management of the oyster reserve lands and for the expenses associated with new research and development activities at the Pt. Whitney and Nahcotta

shellfish laboratories managed by the department. As used in this subsection, "new research and development activities" includes an emphasis on the control of aquatic nuisance species and burrowing shrimp;

(b) Up to ten percent may be deposited into the state general fund; and

(c) Except as provided in subsection (3) of this section, all remaining funds in the account shall be used for the shellfish - on-site sewage grant program established in RCW 90.71.100.

(3)(a) No later than January 1st of each year, from revenues received from the Willapa bay oyster reserve, the department shall transfer one hundred thousand dollars to the on-site sewage grant program established in RCW 90.71.100 (as recodified by this act).

(b) All remaining revenues received from the Willapa bay oyster reserve shall be used to fund research activities as specified in subsection 2(a) of this section.

NEW SECTION. Sec. 45. A new section is added to chapter 41.06 RCW to read as follows:

In addition to the exemptions under RCW 41.06.070, the provisions of this chapter shall not apply in the Puget Sound partnership to the executive director, to one confidential secretary, and to all professional staff.

Sec. 46. RCW 43.17.010 and 2006 c 265 s 111 are each amended to read as follows:

There shall be departments of the state government which shall be known as (1) the department of social and health services, (2) the department of ecology, (3) the department of labor and industries, (4) the department of agriculture, (5) the department of fish and wildlife, (6) the department of transportation, (7) the department of licensing, (8) the department of general administration, (9) the department of community, trade, and economic development, (10) the department of veterans affairs, (11) the department of revenue, (12) the department of retirement systems, (13) the department of corrections, (14) the department of health, (15) the department of financial institutions, (16) the department of archaeology and historic preservation, ~~((and))~~ (17) the department of early learning, and (18) the Puget Sound partnership, which shall be charged with the execution, enforcement, and administration of such laws, and invested with such powers and required to perform such duties, as the legislature may provide.

Sec. 47. RCW 43.17.020 and 2006 c 265 s 112 are each amended to read as follows:

There shall be a chief executive officer of each department to be known as: (1) The secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fish and wildlife, (6) the secretary of transportation, (7) the director of licensing, (8) the director of general administration, (9) the director of community, trade, and economic development, (10) the director of veterans affairs, (11) the director of revenue, (12) the director of retirement systems, (13) the secretary of corrections, (14) the secretary of health, (15) the director of financial institutions, (16) the director of the department of archaeology and historic preservation, ~~((and))~~ (17) the director of early learning, and (18) the executive director of the Puget Sound partnership.

Such officers, except the director of fish and wildlife, shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. The director of fish and

wildlife shall be appointed by the fish and wildlife commission as prescribed by RCW 77.04.055.

Sec. 48. RCW 42.17.2401 and 2006 c 265 s 113 are each amended to read as follows:

For the purposes of RCW 42.17.240, the term "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, the administrator of the Washington basic health plan, the director of the department of services for the blind, the director of the state system of community and technical colleges, the director of community, trade, and economic development, the secretary of corrections, the director of early learning, the director of ecology, the commissioner of employment security, the chair of the energy facility site evaluation council, the secretary of the state finance committee, the director of financial management, the director of fish and wildlife, the executive secretary of the forest practices appeals board, the director of the gambling commission, the director of general administration, the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, the executive secretary of the human rights commission, the executive secretary of the indeterminate sentence review board, the director of the department of information services, the director of the interagency committee for outdoor recreation, the executive director of the state investment board, the director of labor and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business enterprises, the director of parks and recreation, the director of personnel, the executive director of the public disclosure commission, the executive director of the Puget Sound partnership, the director of retirement systems, the director of revenue, the secretary of social and health services, the chief of the Washington state patrol, the executive secretary of the board of tax appeals, the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the president of each of the regional and state universities and the president of The Evergreen State College, and each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, board of trustees of each community college, each member of the state board for community and technical colleges, state convention and trade center board of directors, committee for deferred compensation, Eastern Washington University board of trustees, Washington economic development finance authority, The Evergreen State College board of trustees, executive ethics board, forest practices appeals board, forest practices board, gambling commission, life sciences discovery fund authority board of trustees, Washington health care facilities authority, each member of the Washington health services commission, higher education coordinating board, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, information services board, interagency committee for outdoor recreation, state investment board, commission on judicial conduct, legislative ethics board, liquor control board, lottery commission, marine oversight board, Pacific Northwest electric power and conservation planning council, parks and recreation commission, ~~((personnel appeals board,))~~ board of pilotage

commissioners, pollution control hearings board, public disclosure commission, public pension commission, shorelines hearing board, public employees' benefits board, salmon recovery funding board, board of tax appeals, transportation commission, University of Washington board of regents, utilities and transportation commission, Washington state maritime commission, Washington personnel resources board, Washington public power supply system executive board, Washington State University board of regents, Western Washington University board of trustees, and fish and wildlife commission.

Sec. 49. RCW 77.85.090 and 2005 c 309 s 7 are each amended to read as follows:

(1) The southwest Washington salmon recovery region, whose boundaries are provided in chapter 60, Laws of 1998, is created.

(2) Lead entities within a salmon recovery region that agree to form a regional salmon recovery organization may be recognized by the salmon recovery office as a regional recovery organization. The regional recovery organization may plan, coordinate, and monitor the implementation of a regional recovery plan in accordance with RCW 77.85.150. Regional recovery organizations existing as of July 24, 2005, that have developed draft recovery plans approved by the governor's salmon recovery office by July 1, 2005, may continue to plan, coordinate, and monitor the implementation of regional recovery plans.

(3) Beginning January 1, 2008, the leadership council, created under chapter 90.71 RCW, shall serve as the regional salmon recovery organization for Puget Sound salmon species, except for the program known as the Hood Canal summer chum evolutionarily significant unit area, which the Hood Canal coordinating council shall continue to administer under chapter 90.88 RCW.

Sec. 50. RCW 90.88.005 and 2005 c 478 s 1 are each amended to read as follows:

(1) The legislature finds that Hood Canal is a precious aquatic resource of our state. The legislature finds that Hood Canal is a rich source of recreation, fishing, aquaculture, and aesthetic enjoyment for the citizens of this state. The legislature also finds that Hood Canal has great cultural significance for the tribes in the Hood Canal area. The legislature therefore recognizes Hood Canal's substantial environmental, cultural, economic, recreational, and aesthetic importance in this state.

(2) The legislature finds that Hood Canal is a marine water of the state at significant risk. The legislature finds that Hood Canal has a "dead zone" related to low-dissolved oxygen concentrations, a condition that has recurred for many years. The legislature also finds that this problem and various contributors to the problem were documented in the May 2004 *Preliminary Assessment and Corrective Action Plan* published by the state agency known as the Puget Sound action team and the Hood Canal coordinating council.

(3) The legislature further finds that significant research, monitoring, and study efforts are currently occurring regarding Hood Canal's low-dissolved oxygen concentrations. The legislature also finds numerous public, private, and community organizations are working to provide public education and identify potential solutions. The legislature recognizes that, while some information and research is now available and some potential solutions have been identified, more research and analysis is needed to fully develop a program to address Hood Canal's low-dissolved oxygen concentrations.

(4) The legislature finds a need exists for the state to take action to address Hood Canal's low-dissolved oxygen concentrations. The legislature also finds establishing an aquatic rehabilitation zone for

Hood Canal will serve as a statutory framework for future regulations and programs directed at recovery of this important aquatic resource.

(5) The legislature therefore intends to establish an aquatic rehabilitation zone for Hood Canal as the framework to address Hood Canal's low-dissolved oxygen concentrations. The legislature also intends to incorporate provisions in the new statutory chapter creating the designation as solutions are identified regarding this problem.

Sec. 51. RCW 90.88.020 and 2005 c 479 s 2 are each amended to read as follows:

(1) The development of a program for rehabilitation of Hood Canal is authorized in Jefferson, Kitsap, and Mason counties within the aquatic rehabilitation zone one.

(2) The Puget Sound ~~((action team))~~ partnership, created in section 3 of this act, is designated as the state lead agency for the rehabilitation program authorized in this section.

(3) The Hood Canal coordinating council is designated as the local management board for the rehabilitation program authorized in this section.

(4) The Puget Sound ~~((action team))~~ partnership and the Hood Canal coordinating council must each approve and must comanage projects under the rehabilitation program authorized in this section.

Sec. 52. RCW 90.88.030 and 2005 c 479 s 3 are each amended to read as follows:

(1) The Hood Canal coordinating council shall serve as the local management board for aquatic rehabilitation zone one. The local management board shall coordinate local government efforts with respect to the program authorized according to RCW 90.88.020. In the Hood Canal area, the Hood Canal coordinating council also shall:

(a) Serve as the lead entity and the regional recovery organization for the purposes of chapter 77.85 RCW for Hood Canal summer chum; and

(b) Assist in coordinating activities under chapter 90.82 RCW.

(2) When developing and implementing the program authorized in RCW 90.88.020 and when establishing funding criteria according to subsection (7) of this section, the Puget Sound ~~((action team))~~ partnership, created in section 3 of this act, and the local management board shall solicit participation by federal, tribal, state, and local agencies and universities and nonprofit organizations with expertise in areas related to program activities. The local management board may include state and federal agency representatives, or additional persons, as nonvoting management board members or may receive technical assistance and advice from them in other venues. The local management board also may appoint technical advisory committees as needed.

(3) The local management board and the Puget Sound ~~((action team))~~ partnership shall participate in the development of the program authorized under RCW 90.88.020.

(4) The local management board and its participating local and tribal governments shall assess concepts for a regional governance structure and shall submit a report regarding the findings and recommendations to the appropriate committees of the legislature by December 1, 2007.

(5) Any of the local management board's participating counties and tribes, any federal, tribal, state, or local agencies, or any universities or nonprofit organizations may continue individual efforts and activities for rehabilitation of Hood Canal. Nothing in this section limits the authority of units of local government to enter into interlocal agreements under chapter 39.34 RCW or any other provision of law.

(6) The local management board may not exercise authority over land or water within the individual counties or otherwise preempt the authority of any units of local government.

(7) The local management board and the Puget Sound (~~(action team)~~) partnership each may receive and disburse funding for projects, studies, and activities related to Hood Canal's low-dissolved oxygen concentrations. The Puget Sound (~~(action team)~~) partnership and the local management board shall jointly coordinate a process to prioritize projects, studies, and activities for which the Puget Sound (~~(action team)~~) partnership receives state funding specifically allocated for Hood Canal corrective actions to implement this section. The local management board and the Puget Sound (~~(action team)~~) partnership shall establish criteria for funding these projects, studies, and activities based upon their likely value in addressing and resolving Hood Canal's low-dissolved oxygen concentrations. Final approval for projects under this section requires the consent of both the Puget Sound (~~(action team)~~) partnership and the local management board. Projects under this section must be managed by the Puget Sound (~~(action team)~~) partnership and the local management board. Nothing in this section prohibits any federal, tribal, state, or local agencies, universities, or nonprofit organizations from receiving funding for specific projects that may assist in the rehabilitation of Hood Canal.

(8) The local management board may hire and fire staff, including an executive director, enter into contracts, accept grants and other moneys, disburse funds, make recommendations to local governments about potential regulations and the development of programs and incentives upon request, pay all necessary expenses, and choose a fiduciary agent.

(9) The local management board shall report its progress on a quarterly basis to the legislative bodies of the participating counties and tribes and the participating state agencies. The local management board also shall submit an annual report describing its efforts and successes in implementing the program established according to RCW 90.88.020 to the appropriate committees of the legislature.

Sec. 53. RCW 90.88.901 and 2005 c 479 s 5 are each amended to read as follows:

Nothing in chapter 479, Laws of 2005 provides any regulatory authority to the Puget Sound (~~(action team)~~) partnership, created in section 3 of this act, or the Hood Canal coordinating council.

Sec. 54. RCW 90.88.902 and 2005 c 479 s 6 are each amended to read as follows:

The activities of the Puget Sound (~~(action team)~~) partnership, created in section 3 of this act, and the Hood Canal coordinating council required by chapter 479, Laws of 2005 are subject to the availability of amounts appropriated for this specific purpose.

Sec. 55. RCW 90.48.260 and 2003 c 325 s 7 are each amended to read as follows:

The department of ecology is hereby designated as the State Water Pollution Control Agency for all purposes of the federal clean water act as it exists on February 4, 1987, and is hereby authorized to participate fully in the programs of the act as well as to take all action necessary to secure to the state the benefits and to meet the requirements of that act. With regard to the national estuary program established by section 320 of that act, the department shall exercise its responsibility jointly with the Puget Sound (~~(water quality authority)~~) partnership, created in section 3 of this act. The department of ecology may delegate its authority under this chapter, including its national pollutant discharge elimination permit system

authority and duties regarding animal feeding operations and concentrated animal feeding operations, to the department of agriculture through a memorandum of understanding. Until any such delegation receives federal approval, the department of agriculture's adoption or issuance of animal feeding operation and concentrated animal feeding operation rules, permits, programs, and directives pertaining to water quality shall be accomplished after reaching agreement with the director of the department of ecology. Adoption or issuance and implementation shall be accomplished so that compliance with such animal feeding operation and concentrated animal feeding operation rules, permits, programs, and directives will achieve compliance with all federal and state water pollution control laws. The powers granted herein include, among others, and notwithstanding any other provisions of chapter 90.48 RCW or otherwise, the following:

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

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

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

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

Sec. 56. RCW 79A.60.520 and 1999 c 249 s 1507 are each amended to read as follows:

The commission, in consultation with the departments of ecology, fish and wildlife, natural resources, social and health services, and the Puget Sound (~~(action team)~~) partnership shall conduct a literature search and analyze pertinent studies to identify areas which are polluted or environmentally sensitive within the state's waters. Based on this review the commission shall designate appropriate areas as polluted or environmentally sensitive, for the purposes of chapter 393, Laws of 1989 only.

Sec. 57. RCW 79A.60.510 and 1999 c 249 s 1506 are each amended to read as follows:

The legislature finds that the waters of Washington state provide a unique and valuable recreational resource to large and growing numbers of boaters. Proper stewardship of, and respect for, these waters requires that, while enjoying them for their scenic and recreational benefits, boaters must exercise care to assure that such activities do not contribute to the despoliation of these waters, and that watercraft be operated in a safe and responsible manner. The legislature has specifically addressed the topic of access to clean and safe waterways by requiring the 1987 boating safety study and by establishing the Puget Sound ((~~action team~~)) partnership.

The legislature finds that there is a need to educate Washington's boating community about safe and responsible actions on our waters and to increase the level and visibility of the enforcement of boating laws. To address the incidence of fatalities and injuries due to recreational boating on our state's waters, local and state efforts directed towards safe boating must be stimulated. To provide for safe waterways and public enjoyment, portions of the watercraft excise tax and boat registration fees should be made available for boating safety and other boating recreation purposes.

In recognition of the need for clean waterways, and in keeping with the Puget Sound ((~~action team's~~)) partnership's water quality work plan, the legislature finds that adequate opportunities for responsible disposal of boat sewage must be made available. There is hereby established a five-year initiative to install sewage pumpout or sewage dump stations at appropriate marinas.

To assure the use of these sewage facilities, a boater environmental education program must accompany the five-year initiative and continue to educate boaters about boat wastes and aquatic resources.

The legislature also finds that, in light of the increasing numbers of boaters utilizing state waterways, a program to acquire and develop sufficient waterway access facilities for boaters must be undertaken.

To support boating safety, environmental protection and education, and public access to our waterways, the legislature declares that a portion of the income from boating-related activities, as specified in RCW 82.49.030 and 88.02.040, should support these efforts.

Sec. 58. RCW 79.105.500 and 2005 c 155 s 158 are each amended to read as follows:

The legislature finds that the department provides, manages, and monitors aquatic land dredged material disposal sites on state-owned aquatic lands for materials dredged from rivers, harbors, and shipping lanes. These disposal sites are approved through a cooperative planning process by the departments of natural resources and ecology, the United States army corps of engineers, and the United States environmental protection agency in cooperation with the Puget Sound ((~~action team~~)) partnership. These disposal sites are essential to the commerce and well-being of the citizens of the state of Washington. Management and environmental monitoring of these sites are necessary to protect environmental quality and to assure appropriate use of state-owned aquatic lands. The creation of an aquatic land dredged material disposal site account is a reasonable means to enable and facilitate proper management and environmental monitoring of these disposal sites.

Sec. 59. RCW 77.60.130 and 2000 c 149 s 1 are each amended to read as follows:

(1) The aquatic nuisance species committee is created for the purpose of fostering state, federal, tribal, and private cooperation on aquatic nuisance species issues. The mission of the committee is to minimize the unauthorized or accidental introduction of nonnative aquatic species and give special emphasis to preventing the introduction and spread of aquatic nuisance species. The term "aquatic nuisance species" means a nonnative aquatic plant or animal species that threatens the diversity or abundance of native species, the ecological stability of infested waters, or commercial, agricultural, or recreational activities dependent on such waters.

(2) The committee consists of representatives from each of the following state agencies: Department of fish and wildlife, department of ecology, department of agriculture, department of health, department of natural resources, Puget Sound ((~~water quality action team~~)) partnership, state patrol, state noxious weed control board, and Washington sea grant program. The committee shall encourage and solicit participation by: Federally recognized tribes of Washington, federal agencies, Washington conservation organizations, environmental groups, and representatives from industries that may either be affected by the introduction of an aquatic nuisance species or that may serve as a pathway for their introduction.

(3) The committee has the following duties:

(a) Periodically revise the state of Washington aquatic nuisance species management plan, originally published in June 1998;

(b) Make recommendations to the legislature on statutory provisions for classifying and regulating aquatic nuisance species;

(c) Recommend to the state noxious weed control board that a plant be classified under the process designated by RCW 17.10.080 as an aquatic noxious weed;

(d) Coordinate education, research, regulatory authorities, monitoring and control programs, and participate in regional and national efforts regarding aquatic nuisance species;

(e) Consult with representatives from industries and other activities that may serve as a pathway for the introduction of aquatic nuisance species to develop practical strategies that will minimize the risk of new introductions; and

(f) Prepare a biennial report to the legislature with the first report due by December 1, 2001, making recommendations for better accomplishing the purposes of this chapter, and listing the accomplishments of this chapter to date.

(4) The committee shall accomplish its duties through the authority and cooperation of its member agencies. Implementation of all plans and programs developed by the committee shall be through the member agencies and other cooperating organizations.

Sec. 60. RCW 70.146.070 and 1999 c 164 s 603 are each amended to read as follows:

(1) When making grants or loans for water pollution control facilities, the department shall consider the following:

(a) The protection of water quality and public health;

(b) The cost to residential ratepayers if they had to finance water pollution control facilities without state assistance;

(c) Actions required under federal and state permits and compliance orders;

(d) The level of local fiscal effort by residential ratepayers since 1972 in financing water pollution control facilities;

(e) The extent to which the applicant county or city, or if the applicant is another public body, the extent to which the county or city in which the applicant public body is located, has established programs to mitigate nonpoint pollution of the surface or subterranean water sought to be protected by the water pollution control facility named in the application for state assistance; and

(f) The recommendations of the Puget Sound (~~(action team)~~ partnership, created in section 3 of this act, and any other board, council, commission, or group established by the legislature or a state agency to study water pollution control issues in the state.

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 may not receive a grant or loan for water pollution control facilities unless it has adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving a grant or loan under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 which has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 is not prohibited from receiving a grant or loan under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before submitting a request for a grant or loan.

(3) Whenever the department is considering awarding grants or loans for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, it shall consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

Sec. 61. RCW 70.118.090 and 1994 c 281 s 6 are each amended to read as follows:

The department may not use funds appropriated to implement an element of the action agenda developed by the Puget Sound ((water quality authority plan)) partnership under section 13 of this act to conduct any activity required under chapter 281, Laws of 1994.

Sec. 62. RCW 43.21J.030 and 1998 c 245 s 60 are each amended to read as follows:

(1) There is created the environmental enhancement and job creation task force within the office of the governor. The purpose of the task force is to provide a coordinated and comprehensive approach to implementation of chapter 516, Laws of 1993. The task force shall consist of the commissioner of public lands, the director of the department of fish and wildlife, the director of the department of ecology, the director of the parks and recreation commission, the timber team coordinator, the executive director of the work force training and education coordinating board, and the executive director of the Puget Sound (~~(water quality authority)) partnership,~~ or their designees. The task force may seek the advice of the following agencies and organizations: The department of community, trade, and economic development, the conservation commission, the employment security department, the interagency committee for outdoor recreation, appropriate federal agencies, appropriate special districts, the Washington state association of counties, the association of Washington cities, labor organizations, business organizations, timber-dependent communities, environmental organizations, and Indian tribes. The governor shall appoint the task force chair. Members of the task force shall serve without additional pay. Participation in the work of the committee by agency members shall be considered in performance of their employment. The governor shall designate staff and administrative support to the task force and

shall solicit the participation of agency personnel to assist the task force.

(2) The task force shall have the following responsibilities:

(a) Soliciting and evaluating, in accordance with the criteria set forth in RCW 43.21J.040, requests for funds from the environmental and forest restoration account and making distributions from the account. The task force shall award funds for projects and training programs it approves and may allocate the funds to state agencies for disbursement and contract administration;

(b) Coordinating a process to assist state agencies and local governments to implement effective environmental and forest restoration projects funded under this chapter;

(c) Considering unemployment profile data provided by the employment security department.

(3) Beginning July 1, 1994, the task force shall have the following responsibilities:

(a) To solicit and evaluate proposals from state and local agencies, private nonprofit organizations, and tribes for environmental and forest restoration projects;

(b) To rank the proposals based on criteria developed by the task force in accordance with RCW 43.21J.040; and

(c) To determine funding allocations for projects to be funded from the account created in RCW 43.21J.020 and for projects or programs as designated in the omnibus operating and capital appropriations acts.

Sec. 63. RCW 43.21J.040 and 1993 c 516 s 4 are each amended to read as follows:

(1) Subject to the limitations of RCW 43.21J.020, the task force shall award funds from the environmental and forest restoration account on a competitive basis. The task force shall evaluate and rate environmental enhancement and restoration project proposals using the following criteria:

(a) The ability of the project to produce measurable improvements in water and habitat quality;

(b) The cost-effectiveness of the project based on: (i) Projected costs and benefits of the project; (ii) past costs and environmental benefits of similar projects; and (iii) the ability of the project to achieve cost efficiencies through its design to meet multiple policy objectives;

(c) The inclusion of the project as a high priority in a federal, state, tribal, or local government plan relating to environmental or forest restoration, including but not limited to a local watershed action plan, storm water management plan, capital facility plan, growth management plan, or a flood control plan; or the ranking of the project by conservation districts as a high priority for water quality and habitat improvements;

(d) The number of jobs to be created by the project for dislocated forest products workers, high-risk youth, and residents of impact areas;

(e) Participation in the project by environmental businesses to provide training, cosponsor projects, and employ or jointly employ project participants;

(f) The ease with which the project can be administered from the community the project serves;

(g) The extent to which the project will either augment existing efforts by organizations and governmental entities involved in environmental and forest restoration in the community or receive matching funds, resources, or in-kind contributions; and

(h) The capacity of the project to produce jobs and job-related training that will pay market rate wages and impart marketable skills to workers hired under this chapter.

(2) The following types of projects and programs shall be given top priority in the first fiscal year after July 1, 1993:

(a) Projects that are highly ranked in and implement adopted or approved watershed action plans, such as those developed pursuant to rules adopted by the agency then known as the Puget Sound water quality authority (~~(rules adopted)~~) for local planning and management of nonpoint source pollution;

(b) Conservation district projects that provide water quality and habitat improvements;

(c) Indian tribe projects that provide water quality and habitat improvements; or

(d) Projects that implement actions approved by a shellfish protection district under chapter 100, Laws of 1992.

(3) Funds shall not be awarded for the following activities:

(a) Administrative rule making;

(b) Planning; or

(c) Public education.

Sec. 64. RCW 28B.30.632 and 1990 c 289 s 2 are each amended to read as follows:

(1) The sea grant and cooperative extension shall jointly administer a program to provide field agents to work with local governments, property owners, and the general public to increase the propagation of shellfish, and to address Puget Sound water quality problems within Kitsap, Mason, and Jefferson counties that may limit shellfish propagation potential. The sea grant and cooperative extension shall each make available the services of no less than two agents within these counties for the purposes of this section.

(2) The responsibilities of the field agents shall include but not be limited to the following:

(a) Provide technical assistance to property owners, marine industry owners and operators, and others, regarding methods and practices to address nonpoint and point sources of pollution of Puget Sound;

(b) Provide technical assistance to address water quality problems limiting opportunities for enhancing the recreational harvest of shellfish;

(c) Provide technical assistance in the management and increased production of shellfish to facility operators or to those interested in establishing an operation;

(d) Assist local governments to develop and implement education and public involvement activities related to Puget Sound water quality;

(e) Assist in coordinating local water quality programs with region-wide and statewide programs;

(f) Provide information and assistance to local watershed committees.

(3) The sea grant and cooperative extension shall mutually coordinate their field agent activities to avoid duplicative efforts and to ensure that the full range of responsibilities under RCW 28B.30.632 through 28B.30.636 are carried out. They shall consult with the Puget Sound (~~(water quality authority)~~) partnership, created in section 3 of this act, and ensure consistency with ((the authority's)) any of the Puget Sound partnership's water quality management plans.

(4) Recognizing the special expertise of both agencies, the sea grant and cooperative extension shall cooperate to divide their activities as follows:

(a) Sea grant shall have primary responsibility to address water quality issues related to activities within Puget Sound, and to provide assistance regarding the management and improvement of shellfish production; and

(b) Cooperative extension shall have primary responsibility to address upland and freshwater activities affecting Puget Sound water quality and associated watersheds.

NEW SECTION. Sec. 65. RCW 90.71.902 and 90.71.903 are each decodified.

NEW SECTION. Sec. 66. RCW 90.71.100 is recodified as a new section in chapter 70.118 RCW.

NEW SECTION. Sec. 67. The following acts or parts of acts are each repealed:

(1) RCW 90.71.005 (Findings) and 1998 c 246 s 13 & 1996 c 138 s 1;

(2) RCW 90.71.015 (Environmental excellence program agreements--Effect on chapter) and 1997 c 381 s 30;

(3) RCW 90.71.020 (Puget Sound action team) and 1998 c 246 s 14 & 1996 c 138 s 3;

(4) RCW 90.71.030 (Puget Sound council) and 1999 c 241 s 3 & 1996 c 138 s 4;

(5) RCW 90.71.040 (Chair of action team) and 1996 c 138 s 5;

(6) RCW 90.71.050 (Work plans) and 1998 c 246 s 15 & 1996 c 138 s 6;

(7) RCW 90.71.070 (Work plan implementation) and 1996 c 138 s 8;

(8) RCW 90.71.080 (Public participation) and 1996 c 138 s 9;

(9) RCW 90.71.900 (Short title--1996 c 138) and 1996 c 138 s 15; and

(10) RCW 90.71.901 (Captions not law) and 1996 c 138 s 14.

NEW SECTION. Sec. 68. Sections 1, 3 through 21, 23, 41, and 42 of this act are each added to chapter 90.71 RCW.

NEW SECTION. Sec. 69. 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. 70. 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 July 1, 2007."

Correct the title.

Representative Upthegrove spoke in favor of the adoption of the amendment.

The amendment was adopted.

Representative Bailey moved the adoption of amendment (639):

On page 66, beginning on line 1 of the amendment, strike all material through "2007." on line 4 of the amendment

Renumber the sections consecutively and correct any internal references accordingly.

Representative Bailey spoke in favor of the adoption of the amendment.

Representative Upthegrove spoke against the adoption of the amendment.

The amendment was not adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House was placed on final passage.

Representatives Upthegrove, Sump, Eickmeyer, Rolfes, Jarrett, Condotta, Walsh and Springer spoke in favor of passage of the bill.

Representatives Pearson, Schindler and Kretz spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5372, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5372, as amended by the House and the bill passed the House by the following vote: Yeas - 86, Nays - 12, Absent - 0, Excused - 0.

Voting yea: Representatives Alexander, Anderson, Appleton, Bailey, Barlow, Blake, Buri, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Curtis, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Newhouse, O'Brien, Ormsby, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Williams, Wood and Mr. Speaker - 86.

Voting nay: Representatives Ahern, Armstrong, Crouse, Dunn, Hailey, Hinkle, Kretz, Kristiansen, Orcutt, Pearson, Schindler and Warnick - 12.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5372, as amended by the House, having received the necessary constitutional majority, was declared passed.

ENGROSSED SUBSTITUTE SENATE BILL NO. 6023, By Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators McAuliffe and Rasmussen)

Concerning the Washington assessment of student learning.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Appropriations was not adopted. (For Committee amendment, see Journal, 85th Day, April 2, 2007.)

Amendment (553) was rule out of order.

Representative P. Sullivan moved the adoption of amendment (615):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature maintains a strong commitment to high expectations and high academic achievement for all students. The legislature finds that Washington schools and students are making significant progress in improving achievement in reading and writing. Schools are adapting instruction and providing remediation for students who need additional assistance. Reading and writing are being taught across the curriculum. Therefore, the legislature does not intend to make changes to the Washington assessment of student learning or high school graduation requirements in reading and writing.

(2) However, students are having difficulty improving their academic achievement in mathematics and science, particularly as measured by the high school Washington assessment of student learning. The legislature finds that corrections are needed in the state's high school assessment system that will improve alignment between learning standards, instruction, diagnosis, and assessment of students' knowledge and skills in high school mathematics and science. The legislature further finds there is a sense of urgency to make these corrections and intends to revise high school graduation requirements in mathematics and science only for the minimum period for corrections to be fully implemented.

Sec. 2. RCW 28A.655.061 and 2006 c 115 s 4 are each amended to read as follows:

(1) The high school assessment system shall include but need not be limited to the Washington assessment of student learning, opportunities for a student to retake the content areas of the assessment in which the student was not successful, and if approved by the legislature pursuant to subsection (10) of this section, one or more objective alternative assessments for a student to demonstrate achievement of state academic standards. The objective alternative assessments for each content area shall be comparable in rigor to the skills and knowledge that the student must demonstrate on the Washington assessment of student learning for each content area.

(2) Subject to the conditions in this section, a certificate of academic achievement shall be obtained by most students at about the age of sixteen, and is evidence that the students have successfully met the state standard in the content areas included in the certificate. With the exception of students satisfying the provisions of RCW 28A.155.045 or section 4 of this act, acquisition of the certificate is required for graduation from a public high school but is not the only requirement for graduation.

(3) Beginning with the graduating class of 2008, with the exception of students satisfying the provisions of RCW 28A.155.045, a student who meets the state standards on the reading, writing, and mathematics content areas of the high school Washington assessment of student learning shall earn a certificate of academic achievement.

If a student does not successfully meet the state standards in one or more content areas required for the certificate of academic achievement, then the student may retake the assessment in the content area up to four times at no cost to the student. If the student successfully meets the state standards on a retake of the assessment then the student shall earn a certificate of academic achievement. Once objective alternative assessments are authorized pursuant to subsection (10) of this section, a student may use the objective alternative assessments to demonstrate that the student successfully meets the state standards for that content area if the student has ~~((retaken))~~ taken the Washington assessment of student learning at least once. If the student successfully meets the state standards on the objective alternative assessments then the student shall earn a certificate of academic achievement.

(4) Beginning with the graduating class of ~~((2010))~~ 2013, a student must meet the state standards in science in addition to the other content areas required under subsection (3) of this section on the Washington assessment of student learning or the objective alternative assessments in order to earn a certificate of academic achievement.

(5) The state board of education may not require the acquisition of the certificate of academic achievement for students in home-based instruction under chapter 28A.200 RCW, for students enrolled in private schools under chapter 28A.195 RCW, or for students satisfying the provisions of RCW 28A.155.045.

(6) A student may retain and use the highest result from each successfully completed content area of the high school assessment.

(7) ~~((Beginning in 2006;))~~ School districts must make available to students the following options:

(a) To retake the Washington assessment of student learning up to four times in the content areas in which the student did not meet the state standards if the student is enrolled in a public school; or

(b) To retake the Washington assessment of student learning up to four times in the content areas in which the student did not meet the state standards if the student is enrolled in a high school completion program at a community or technical college. The superintendent of public instruction and the state board for community and technical colleges shall jointly identify means by which students in these programs can be assessed.

(8) Students who achieve the standard in a content area of the high school assessment but who wish to improve their results shall pay for retaking the assessment, using a uniform cost determined by the superintendent of public instruction.

(9) ~~((Subject to available funding, the superintendent shall pilot opportunities for retaking the high school assessment beginning in the 2004-05 school year. Beginning no later than September 2006;))~~ Opportunities to retake the assessment at least twice a year shall be available to each school district.

(10)(a) The office of the superintendent of public instruction shall develop options for implementing objective alternative assessments, which may include an appeals process, for students to demonstrate achievement of the state academic standards. The objective alternative assessments shall be comparable in rigor to the skills and knowledge that the student must demonstrate on the Washington assessment of student learning and be objective in its determination of student achievement of the state standards. Before any objective alternative assessments in addition to those authorized in RCW 28A.655.065 or (b) of this subsection are used by a student to demonstrate that the student has met the state standards in a content area required to obtain a certificate, the legislature shall formally approve the use of any objective alternative assessments

through the omnibus appropriations act or by statute or concurrent resolution.

~~((b)(i))~~ (b)(i) A student's score on the mathematics or reading portion of the preliminary scholastic assessment test (PSAT)~~((;))~~ or on the mathematics, reading or English, or writing portion of the scholastic assessment test (SAT)~~((;))~~ or the American college test (ACT) may be used as an objective alternative assessment under this section for demonstrating that a student has met or exceeded the ~~((mathematics))~~ state standards for the certificate of academic achievement. The state board of education shall identify the scores students must achieve on the ~~((mathematics))~~ relevant portion of the PSAT, SAT, or ACT to meet or exceed the state standard ~~((for mathematics))~~ in the relevant content area on the Washington assessment of student learning. The state board of education shall identify the first scores by December 1, ~~((2006, and thereafter))~~ 2007. After the first scores are established, the state board may increase but not decrease the scores required for students to meet or exceed the state standards ~~((for mathematics))~~.

~~((ii))~~ (ii) The superintendent of public instruction shall implement an alternative assessment for mathematics that presents the mathematics essential academic learning requirements in segments; is comparable in content and rigor to the tenth grade mathematics assessment when all segments are considered together; is reliable and valid; and can be used to determine a student's academic performance level. The segmented mathematics assessment authorized under this subsection (10)(b)(ii) may be used as an objective alternative assessment under this section for demonstrating that a student has met the mathematics standards for the certificate of academic achievement.

(11) By December 15, 2004, the house of representatives and senate education committees shall obtain information and conclusions from recognized, independent, national assessment experts regarding the validity and reliability of the high school Washington assessment of student learning for making individual student high school graduation determinations.

(12) To help assure continued progress in academic achievement as a foundation for high school graduation and to assure that students are on track for high school graduation, each school district shall prepare plans for students as provided in this subsection (12).

(a) Student learning plans are required for eighth through twelfth grade students who were not successful on any or all of the content areas of the Washington assessment for student learning during the previous school year. The plan shall include the courses, competencies, and other steps needed to be taken by the student to meet state academic standards and stay on track for graduation. ~~((This requirement shall be phased in as follows:~~

~~((i))~~ (i) Beginning no later than the 2004-05 school year ninth grade students as described in this subsection (12)(a) shall have a plan.

~~((ii))~~ (ii) Beginning no later than the 2005-06 school year and every year thereafter eighth grade students as described in this subsection (12)(a) shall have a plan.

~~((iii))~~ (i) The parent or guardian shall be notified, preferably through a parent conference, of the student's results on the Washington assessment of student learning, actions the school intends to take to improve the student's skills in any content area in which the student was unsuccessful, strategies to help them improve their student's skills, and the content of the student's plan.

~~((iv))~~ (ii) Progress made on the student plan shall be reported to the student's parents or guardian at least annually and adjustments to the plan made as necessary.

~~((Beginning with the 2005-06 school year and every year thereafter;))~~ All fifth grade students who were not successful in one or more of the content areas of the fourth grade Washington assessment of student learning shall have a student learning plan.

(i) The parent or guardian of ~~((a))~~ the student ~~((described in this subsection (12)(b)))~~ shall be notified, preferably through a parent conference, of the student's results on the Washington assessment of student learning, actions the school intends to take to improve the student's skills in any content area in which the student was unsuccessful, and provide strategies to help them improve their student's skills.

(ii) Progress made on the student plan shall be reported to the student's parents or guardian at least annually and adjustments to the plan made as necessary.

Sec. 3. RCW 28A.155.045 and 2004 c 19 s 104 are each amended to read as follows:

Beginning with the graduating class of 2008, students served under this chapter, who are not appropriately assessed by the high school Washington assessment system as defined in RCW 28A.655.061, even with accommodations, may earn a certificate of individual achievement. The certificate may be earned using multiple ways to demonstrate skills and abilities commensurate with their individual education programs. The determination of whether the high school assessment system is appropriate shall be made by the student's individual education program team. Except as provided in section 4 of this act, for these students, the certificate of individual achievement is required for graduation from a public high school, but need not be the only requirement for graduation. When measures other than the high school assessment system as defined in RCW 28A.655.061 are used, the measures shall be in agreement with the appropriate educational opportunity provided for the student as required by this chapter. The superintendent of public instruction shall develop the guidelines for determining which students should not be required to participate in the high school assessment system and which types of assessments are appropriate to use.

When measures other than the high school assessment system as defined in RCW 28A.655.061 are used for high school graduation purposes, the student's high school transcript shall note whether that student has earned a certificate of individual achievement.

Nothing in this section shall be construed to deny a student the right to participation in the high school assessment system as defined in RCW 28A.655.061, and, upon successfully meeting the high school standard, receipt of the certificate of academic achievement.

NEW SECTION. **Sec. 4.** A new section is added to chapter 28A.655 RCW to read as follows:

(1) Beginning with the graduating class of 2008 and through the graduating class of 2011, students may graduate from high school without earning a certificate of academic achievement or a certificate of individual achievement if they:

(a) Have not successfully met the mathematics standard on the high school Washington assessment of student learning, an approved objective alternative assessment, or an alternate assessment developed for eligible special education students;

(b) Have successfully met the state standard in the other content areas required for a certificate under RCW 28A.655.061 or 28A.155.045;

(c) Have met all other state and school district graduation requirements; and

(d)(i) For the graduating class of 2008, successfully earn one additional high school mathematics credit after the student's eleventh grade year designed to increase the individual student's mathematics proficiency toward meeting or exceeding the mathematics standards assessed on the high school Washington assessment of student learning; and

(ii) For the remaining graduating classes under this section, successfully earn two additional mathematics credits after the student's tenth grade year designed to increase the individual student's mathematics proficiency toward meeting or exceeding the mathematics standards assessed on the high school Washington assessment of student learning.

(2) This section expires August 31, 2012.

Sec. 5. RCW 28A.655.070 and 2005 c 497 s 106 are each amended to read as follows:

(1) The superintendent of public instruction shall develop essential academic learning requirements that identify the knowledge and skills all public school students need to know and be able to do based on the student learning goals in RCW 28A.150.210, develop student assessments, and implement the accountability recommendations and requests regarding assistance, rewards, and recognition of the state board of education.

(2) The superintendent of public instruction shall:

(a) Periodically revise the essential academic learning requirements, as needed, based on the student learning goals in RCW 28A.150.210. Goals one and two shall be considered primary. To the maximum extent possible, the superintendent shall integrate goal four and the knowledge and skill areas in the other goals in the essential academic learning requirements; and

(b) Review and prioritize the essential academic learning requirements and identify, with clear and concise descriptions, the grade level content expectations to be assessed on the Washington assessment of student learning and used for state or federal accountability purposes. The review, prioritization, and identification shall result in more focus and targeting with an emphasis on depth over breadth in the number of grade level content expectations assessed at each grade level. Grade level content expectations shall be articulated over the grades as a sequence of expectations and performances that are logical, build with increasing depth after foundational knowledge and skills are acquired, and reflect, where appropriate, the sequential nature of the discipline. The office of the superintendent of public instruction, within seven working days, shall post on its web site any grade level content expectations provided to an assessment vendor for use in constructing the Washington assessment of student learning.

(3) In consultation with the state board of education, the superintendent of public instruction shall maintain and continue to develop and revise a statewide academic assessment system in the content areas of reading, writing, mathematics, and science for use in the elementary, middle, and high school years designed to determine if each student has mastered the essential academic learning requirements identified in subsection (1) of this section. School districts shall administer the assessments under guidelines adopted by the superintendent of public instruction. The academic assessment system ~~((shall))~~ may include a variety of assessment methods, including criterion-referenced and performance-based measures.

(4) If the superintendent proposes any modification to the essential academic learning requirements or the statewide assessments, then the superintendent shall, upon request, provide opportunities for the education committees of the house of representatives and the senate to review the assessments and proposed modifications to the essential academic learning requirements before the modifications are adopted.

5)~~((a))~~ The assessment system shall be designed so that the results under the assessment system are used by educators as tools to evaluate instructional practices, and to initiate appropriate educational support for students who have not mastered the essential

academic learning requirements at the appropriate periods in the student's educational development.

~~((b) Assessments measuring the essential academic learning requirements in the content area of science shall be available for mandatory use in middle schools and high schools by the 2003-04 school year and for mandatory use in elementary schools by the 2004-05 school year unless the legislature takes action to delay or prevent implementation of the assessment.))~~

(6) By September 2007, the results for reading and mathematics shall be reported in a format that will allow parents and teachers to determine the academic gain a student has acquired in those content areas from one school year to the next.

(7) To assist parents and teachers in their efforts to provide educational support to individual students, the superintendent of public instruction shall provide as much individual student performance information as possible within the constraints of the assessment system's item bank. The superintendent shall also provide to school districts:

(a) Information on classroom-based and other assessments that may provide additional achievement information for individual students; and

(b) A collection of diagnostic tools that educators may use to evaluate the academic status of individual students. The tools shall be designed to be inexpensive, easily administered, and quickly and easily scored, with results provided in a format that may be easily shared with parents and students.

(8) To the maximum extent possible, the superintendent shall integrate knowledge and skill areas in development of the assessments.

(9) Assessments for goals three and four of RCW 28A.150.210 shall be integrated in the essential academic learning requirements and assessments for goals one and two.

(10) The superintendent shall develop assessments that are directly related to the essential academic learning requirements, and are not biased toward persons with different learning styles, racial or ethnic backgrounds, or on the basis of gender.

(11) The superintendent shall consider methods to address the unique needs of special education students when developing the assessments under this section.

(12) The superintendent shall consider methods to address the unique needs of highly capable students when developing the assessments under this section.

(13) The superintendent shall post on the superintendent's web site lists of resources and model assessments in social studies, the arts, and health and fitness.

Sec. 6. RCW 28A.655.063 and 2006 c 115 s 5 are each amended to read as follows:

Subject to the availability of funds appropriated for this purpose, ~~((school districts shall reimburse))~~ the office of the superintendent of public instruction shall provide funds to school districts, arrange for students to receive a testing fee waiver, or make other arrangements to compensate students for the cost of taking the tests in RCW 28A.655.061(10)(b) when the students take the tests for the purpose of using the ((mathematics)) results as an objective alternative assessment.

Sec. 7. RCW 28A.655.200 and 2006 c 117 s 4 are each amended to read as follows:

(1) ~~((In the absence of mandatory, statewide, norm-referenced assessments.))~~ The legislature intends to permit school districts to offer norm-referenced assessments, make diagnostic tools available

to school districts, and provide funding for diagnostic assessments to enhance ((guidance and planning for students and to)) student learning at all grade levels and provide early intervention before the high school Washington assessment of student learning.

(2) In addition to the diagnostic assessments provided under ~~((subsection (5) of))~~ this section, school districts may, at their own expense, administer norm-referenced assessments to students.

~~(3)((By September 1, 2005, subject to available funds.))~~ The office of the superintendent of public instruction shall post on its web site for voluntary use by school districts, a guide of diagnostic assessments. The assessments in the guide, to the extent possible, shall include the characteristics listed in subsection (4) of this section.

(4) Beginning September 1, 2007, the office of the superintendent of public instruction shall make diagnostic assessments in reading, writing, mathematics, and science in elementary and middle school grades available to school districts ~~((diagnostic assessments that)).~~ Subject to funds appropriated for this purpose, the office of the superintendent of public instruction shall also provide funding to school districts for administration of diagnostic assessments to help improve student learning, identify academic weaknesses, enhance student planning and guidance, and develop targeted instructional strategies to assist students before the high school Washington assessment of student learning. To the greatest extent possible, the assessments shall be:

(a) Aligned to the state's grade level expectations;

(b) Individualized to each student's performance level;

(c) Administered efficiently to provide results either immediately or within two weeks;

(d) Capable of measuring individual student growth over time and allowing student progress to be compared to other students across the country;

(e) Readily available to parents; and

(f) Cost-effective.

~~(5) ((Beginning with the 2006-07 school year, the superintendent of public instruction shall reimburse school districts for administration of diagnostic assessments in grade nine for the purpose of identifying academic weaknesses, enhancing student planning and guidance, and developing targeted instructional strategies to assist students before the high school Washington assessment of student learning.~~

~~—(6))~~ The office of the superintendent of public instruction ((is encouraged to)) shall offer training at statewide and regional staff development activities ((training opportunities that would assist practitioners)) in:

(a) The interpretation of diagnostic assessments; and

(b) Application of instructional strategies that will increase student learning based on diagnostic assessment data.

NEW SECTION. Sec. 8. (1) The legislature's intent is to make significant improvements in the high school Washington assessment of student learning in the content areas of mathematics and science before requiring students to meet the state standard on the assessment for graduation purposes. The legislature believes that a high school assessment system where students receive instruction through credited high school mathematics and science courses and have their knowledge and skills assessed after they complete the courses represents a superior assessment system than the current form of the Washington assessment of student learning. The legislature also believes that end-of-course assessments offer better diagnostic information and would improve the alignment of curriculum, instruction, and assessment. However, the legislature acknowledges

that replacing the current form of the Washington assessment of student learning in mathematics and science with end-of-course assessments represents a significant change that should be thoroughly evaluated, along with other possible changes, by an independent third party and that members of the education community and the public should have ample opportunity to provide input.

(2)(a) The state board of education, in consultation with the superintendent of public instruction, shall contract with an independent regional educational research organization that has experience with Washington's education and assessment system to examine and recommend changes to the high school Washington assessment of student learning in the content areas of mathematics and science.

(b) The primary change to be examined under this subsection (2) shall be replacing the current high school Washington assessment of student learning with a limited series of end-of-course assessments in mathematics and science. The examination of end-of-course assessments shall include:

(i) An objective analysis of the potential strengths and weaknesses of end-of-course assessments as the primary high school assessment tool for student and school accountability;

(ii) Analysis of the possible impact of end-of-course assessments on curriculum and instruction in mathematics and science;

(iii) The appropriate mathematics and science content to be covered by end-of-course assessments;

(iv) Recommended implementation timelines and issues to be addressed in replacing the current assessment; and

(v) A detailed analysis of the cost-effectiveness of adopting end-of-course assessments compared to continuing to refine and improve the Washington assessment of student learning, associated diagnostic tools, and other teaching support measures.

(b) In addition, the examination shall identify other possible changes to the Washington assessment of student learning that address, at a minimum, the following issues:

(i) Timeliness of the return of score results;

(ii) The diagnostic value of score results;

(iii) Cost of administration of the assessment and the burden on school districts; and

(iv) Opportunities to improve alignment of curriculum, instruction, and the assessment.

(3) In conducting the examination under subsection (2) of this section, the state board of education shall ensure that the regional educational research organization seeks input from other independent national assessment experts and examines the experience of other states, particularly states that have implemented end-of-course assessments.

(4) In any request for proposals for a new testing contractor for the Washington assessment of student learning, the superintendent of public instruction shall include the possible changes being examined by the regional educational research organization so that additional information about the cost and feasibility of the changes can be provided by prospective testing contractors.

(5) A report with findings and recommendations from the regional educational research organization on the issues required to be examined under subsection (2) of this section shall be presented to the state board of education, the superintendent of public instruction, the governor, and the education committees of the legislature by January 10, 2008.

(6) The state board of education shall consider the findings and recommendations from the regional educational research organization using a deliberative public process to ensure ample input from teachers, school and district administrators, the business community,

parents, and other interested individuals and organizations. The state board of education shall submit a final report to the superintendent of public instruction, the governor, and the education committees of the legislature by September 15, 2008, that includes recommendations for changes to the high school Washington assessment of student learning in mathematics and science and a recommended timeline that provides for expedited implementation of the recommended changes.

(7) The legislature intends that the changes recommended by the state board of education under this section shall be able to be implemented no later than the 2009-10 school year in order to apply to the graduating class of 2012. If the state board of education finds that the changes cannot feasibly be implemented by the 2009-10 school year, the state board shall state the specific reasons for such a finding, along with supporting evidence, and recommend a revised expedited timeline.

(8) For its final report, the state board of education shall also examine and make recommendations regarding:

(a) The effectiveness of current authorized alternative assessments; and

(b) Opportunities for additional alternative assessments, including the possible use of one or more standardized norm-referenced student achievement tests and the possible use of the reading, writing, or mathematics portions of the ACT ASSET and ACT COMPASS test instruments as objective alternative assessments for demonstrating that a student has met the state standards for the certificate of academic achievement.

(9) This section expires June 30, 2009.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.655 RCW to read as follows:

(1) In allocating state funds for the promoting academic success program, the legislature has recognized that high school students whose scores represent a near miss of the state standard on the Washington assessment of student learning require fewer remedial resources to ensure that they meet the state standard on the next attempt. However, there is significant variation among the remaining students whose scores represent a far miss of the state standard regarding their levels of knowledge and skills, and consequently the levels of remediation they will need.

(2) School districts receiving funding allocations through the promoting academic success program for high school students scoring more than one standard error of measurement from meeting the state standard shall assign more resources per student to support students scoring at level one on the Washington assessment of student learning than are assigned to support students scoring at level two."

Correct the title.

Representative Jarrett moved the adoption of amendment (650) to amendment (615):

On page 7, line 2 of the striking amendment, after "graduating class of" strike "2011" and insert "2012"

On page 7, line 26 of the striking amendment, after "August 31," strike "2012" and insert "2013"

On page 12, beginning on line 4 of the striking amendment, strike all of section 8 and insert the following:

"**NEW SECTION. Sec. 8.** A new section is added to chapter 28A.655 RCW to read as follows:

(1) The legislature's intent for the high school assessment system in mathematics and science is that students receive instruction through credited high school courses in the content areas to be assessed and have their knowledge and skills assessed after they complete the courses. End-of-course assessments in mathematics and science should, at a minimum, cover the content of algebra I, geometry, and biology, and be based on state learning standards. However, school districts should be responsible for designing and implementing courses that align with state learning standards, state-recommended curricula, and end-of-course assessments. School districts should also have the opportunity to provide instruction in the assessed content areas through integrated courses. To the extent feasible, the assessments should be able to be administered online. Results should be returned in a timely manner and should provide diagnostic information to improve curriculum, instruction, and remediation for struggling students. Furthermore, changes to the high school Washington assessment of student learning to achieve the legislative intent expressed under this subsection should be implemented on an expedited timeline in order to apply to the graduating class of 2013.

(2)(a) The state board of education, in consultation with the superintendent of public instruction, shall examine and recommend changes to the high school Washington assessment of student learning in the content areas of mathematics and science. The examination shall address the issues identified in subsection (1) of this section.

(b) In conducting its examination, the state board of education shall seek input from independent national assessment experts; examine the experience of other states that have implemented end-of-course assessments; and use a deliberative public process to ensure adequate input from teachers, school and district administrators, the business community, parents, and other interested individuals and organizations.

(c) In any request for proposals for a new testing contractor for the Washington assessment of student learning, the superintendent of public instruction shall include the changes being examined by the state board of education so that additional information about the cost and feasibility of end-of-course assessments and implementation timelines can be provided by prospective testing contractors.

(d) The state board of education shall submit a report to the superintendent of public instruction and the education committees of the legislature by January 10, 2008, with findings from the examination under this subsection (2) and recommendations for changes to the high school Washington assessment in mathematics and science that implement the legislative intent expressed under subsection (1) of this section and a timeline for expedited implementation of the recommended changes no later than the 2010-11 school year.

(e) If the state board of education finds that the legislative intent expressed under section (1) of this section cannot feasibly be implemented by the 2010-11 school year, the state board shall state the specific reasons for such a finding, along with supporting evidence, and recommend a revised timeline.

(3) This section expires June 30, 2008."

Representatives Jarrett and P. Sullivan spoke in favor of the adoption of the amendment to amendment (615).

The amendment to amendment (615) was adopted.

With the consent of the House, amendment (628) was withdrawn.

Representatives P. Sullivan and Priest spoke in favor of the adoption of the amendment (615) as amended.

The amendment as amended was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House was placed on final passage.

Representatives P. Sullivan, Priest, Jarrett, Quall and Haler spoke in favor of passage of the bill.

Representatives Hunter and Ahern spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 6023, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 6023, as amended by the House and the bill passed the House by the following vote: Yeas - 81, Nays - 17, Absent - 0, Excused - 0.

Voting yea: Representatives Anderson, Appleton, Armstrong, Barlow, Blake, Buri, Campbell, Chase, Clibborn, Cody, Condotta, Conway, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Eickmeyer, Ericks, Ericksen, Fromhold, Goodman, Grant, Green, Haigh, Hailey, Haler, Hankins, Hasegawa, Hinkle, Hudgins, Hunt, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Morrell, Newhouse, O'Brien, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Sommers, Sullivan, B., Sullivan, P., Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 81.

Voting nay: Representatives Ahern, Alexander, Bailey, Chandler, Crouse, Curtis, Dunn, Flannigan, Hunter, Kristiansen, Miloscia, Moeller, Morris, Orcutt, Schindler, Springer and Strow - 17.

ENGROSSED SUBSTITUTE SENATE BILL NO. 6023, as amended by the House, having received the necessary constitutional majority, was declared passed.

SUBSTITUTE SENATE BILL NO. 5412, By Senate Committee on Transportation (originally sponsored by Senators Murray, Swecker, Marr, Clements and Haugen)

Clarifying goals, objectives, and responsibilities of certain transportation agencies.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Transportation was adopted. (For Committee amendment, see Journal, 85th Day, April 2, 2007.)

Representative Anderson moved the adoption of amendment (612):

On page 17, after line 13 of the amendment, insert:

"NEW SECTION. Sec. 13. The legislature finds that the replacement of the Alaskan Way Viaduct and the state route number 520 floating bridge are the highest priority transportation projects that represent an immediate threat to public safety and are vital to the economic strength of the Puget Sound region and the state as a whole. The legislature also finds that imposing tolls of seven dollars or more on the Lake Washington bridges would be a barrier to low and moderate- income households in the Puget Sound region and would serve to discourage free movement of people throughout the region.

NEW SECTION. Sec. 14. A new section is added to chapter 81.112 RCW to read as follows:

(1) As part of the proposition to support additional implementation phases of the regional transit authority's system and financing plan submitted to voters at the 2007 general election under RCW 36.120.070 and 81.112.030(10), the authority shall not fund any planning, development, or construction that is not described in the sound transit 2 draft package, dated January 11, 2007. In addition, the authority may not apply any revenues received from the 2007 general election under RCW 36.120.070 and 81.112.040(10) toward planning, development, construction, acquisition of right-of-way, or financing of light rail over Lake Washington. This section is not intended to limit a regional transit authority's ability to expand light rail beyond the limitation of this section after November 2007.

(2) Revenues equal to the amount necessary to fund the expansion of light rail as proposed in the sound transit 2 draft package, dated January 11, 2007, shall be distributed to a regional transportation investment district established under chapter 36.120 RCW in accordance with section 5 of this act.

Sec. 15. RCW 81.104.160 and 2003 c 1 s 6 are each amended to read as follows:

An agency may impose a sales and use tax solely for the purpose of providing high capacity transportation service, except as otherwise provided in section 2 of this act, in addition to the tax authorized by RCW 82.14.030, upon retail car rentals within the agency's jurisdiction that are taxable by the state under chapters 82.08 and 82.12 RCW. The rate of tax shall not exceed 2.172 percent. The base of the tax shall be the selling price in the case of a sales tax or the rental value of the vehicle used in the case of a use tax.

Any motor vehicle excise tax previously imposed under the provisions of RCW 81.104.160(1) shall be repealed, terminated and expire on December 5, 2002.

Sec. 16. RCW 81.104.170 and 1997 c 450 s 5 are each amended to read as follows:

(1) Cities that operate transit systems, county transportation authorities, metropolitan municipal corporations, public transportation benefit areas, and regional transit authorities may submit an authorizing proposition to the voters and if approved by a majority of persons voting, fix and impose a sales and use tax in accordance with the terms of this chapter, solely for the purpose of providing high capacity transportation service except as otherwise provided in section 2 of this act.

(2) The tax authorized pursuant to this section shall be in addition to the tax authorized by RCW 82.14.030 and shall be collected from those persons who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the taxing district. The maximum rate of such tax shall be approved by the voters and shall not exceed one percent of the selling price (in the case of a sales tax) or value of the article used (in the case of a use tax). The maximum rate of such tax that may be imposed shall not exceed nine-tenths of one percent in any county that imposes a tax under RCW 82.14.340, or within a regional transit authority if any county within the authority imposes a tax under RCW 82.14.340. The exemptions in RCW 82.08.820 and 82.12.820 are for the state portion of the sales and use tax and do not extend to the tax authorized in this section.

NEW SECTION. Sec. 17. A new section is added to chapter 36.120 RCW to read as follows:

(1) As part of the proposition to support additional implementation phases of the regional transit authority's system and financing plan submitted to voters at the 2007 general election under RCW 36.120.070 and 81.112.040(10), funds received under section 2 of this act shall be allocated to the projects listed below in the amounts described and in the following order of priority:

(a) One billion one hundred million dollars for a tunnel replacement option for the Alaskan Way Viaduct that maintains or exceeds the current capacity.

(i) If a tunnel replacement option is not selected, these funds shall be used to ensure the completion of the projects listed in (b) through (e) of this subsection and to fund projects described in subsection (2) of this section. Any funds that are not necessary to carry out the purposes of this section shall be returned to the regional transit authority.

(ii) The district must reallocate these funds in accordance with subsection (2) of this section if, within one year of passage of the 2007 general election ballot measure approved in RCW 36.120.070 and RCW 81.112.040(10), local jurisdictions have not agreed to contribute seven hundred fifty million dollars in funds from local sources that may include, but are not limited to, a local improvement district and a local utility tax.

(b) Two billion seven hundred million dollars for the improvement and replacement of the state route number 520 bridge replacement and HOV project between Interstate 5 and Interstate 405. The district must include in its ballot measure one billion one hundred million dollars for the state route number 520 floating bridge. These funds must be combined with any additional funds appropriated by federal, state, and local sources to fully fund the state route number 520 bridge replacement and improvements as designated by the district. The funding package for the state route number 520 bridge replacement and HOV project may not include tolling.

(c) Six hundred forty million dollars for the construction of state route number 167 to the port of Tacoma in addition to any other funds provided by the plan developed by the regional transportation investment district.

(d) One hundred thirteen million dollars for the construction of state route number 704 between Interstate 5 and state route number 7, in addition to any other funds provided by the plan developed by the regional transportation investment district.

(e) Ninety-four million dollars for the connection of state route number 509 and Interstate 5 at Sea-Tac in addition to funds already provided by the regional transportation investment district.

(2) Funds not necessary for the implementation of the projects in subsection (1) of this section shall be transferred to sound transit for the purpose of completing light rail to the Tacoma Dome transit center.

Sec. 18. RCW 36.120.040 and 2006 c 311 s 6 are each amended to read as follows:

(1) A regional transportation investment district planning committee shall adopt a regional transportation investment plan providing for the development, construction, and financing of transportation projects. The planning committee may consider the following factors in formulating its plan:

(a) Land use planning criteria;

(b) The input of cities located within a participating county; and

(c) The input of regional transportation planning organizations of which a participating county is a member. A regional transportation planning organization in which a participating county is located shall review its adopted regional transportation plan and submit, for the planning committee's consideration, its list of transportation improvement priorities.

(2) The planning committee may coordinate its activities with the department, which shall provide services, data, and personnel to assist in this planning as desired by the planning committee. In addition, the planning committee may coordinate its activities with affected cities, towns, and other local governments, including any regional transit authority existing within the participating counties' boundaries, that engage in transportation planning.

(3) The planning committee shall:

(a) Conduct public meetings that are needed to assure active public participation in the development of the plan;

(b) Adopt a plan proposing the:

(i) Creation of a regional transportation investment district, including district boundaries; and

(ii) Construction of transportation projects to improve mobility within each county and within the region. Operations, maintenance, and preservation of facilities or systems may not be part of the plan, except for the limited purposes provided under RCW 36.120.020(8); and

(c) Recommend sources of revenue authorized by RCW 36.120.050 and a financing plan to fund selected transportation projects. The overall plan of the district must leverage the district's financial contributions so that the federal, state, local, and other revenue sources continue to fund major congestion relief and transportation capacity improvement projects in each county and the district. A combination of local, state, and federal revenues may be necessary to pay for transportation projects, and the planning committee shall consider all of these revenue sources in developing a plan.

(4) The plan must use tax revenues and related debt for projects that generally benefit a participating county in proportion to the general level of tax revenues generated within that participating county. This equity principle applies to all modifications to the plan, appropriation of contingency funds not identified within the project estimate, and future phases of the plan. Per agreement with a regional transit authority serving the counties participating in a

district, the equity principle identified under this subsection may include using the combined district and regional transit authority revenues generated within a participating county to determine the distribution that proportionally benefits the county. Modifications made under section 5 of this act are in compliance with this equity principle. For purposes of the transportation subarea equity principle established under this subsection, a district may use the five subareas within a regional transit authority's boundaries as identified in an authority's system plan adopted in May 1996. During implementation of the plan, the board shall retain the flexibility to manage distribution of revenues, debt, and project schedules so that the district may effectively implement the plan. Nothing in this section should be interpreted to prevent the district from pledging district-wide tax revenues for payment of any contract or debt entered into under RCW 36.120.130.

(5) Before adopting the plan, the planning committee, with assistance from the department, shall work with the lead agency to develop accurate cost forecasts for transportation projects. This project costing methodology must be integrated with revenue forecasts in developing the plan and must at a minimum include estimated project costs in constant dollars as well as year of expenditure dollars, the range of project costs reflected by the level of project design, project contingencies, identification of mitigation costs, the range of revenue forecasts, and project and plan cash flow and bond analysis. The plan submitted to the voters must provide cost estimates for each project, including reasonable contingency costs. Plans submitted to the voters must provide that the maximum amount possible of the funds raised will be used to fund projects in the plan, including environmental improvements and mitigation, and that administrative costs be minimized. If actual revenue exceeds actual plan costs, the excess revenues must be used to retire any outstanding debt associated with the plan.

(6) If a county opts not to adopt the plan or participate in the regional transportation investment district, but two or more contiguous counties do choose to continue to participate, then the planning committee may, within ninety days, redefine the regional transportation investment plan and the ballot measure to be submitted to the people to reflect elimination of the county, and submit the redefined plan to the legislative authorities of the remaining counties for their decision as to whether to continue to adopt the redefined plan and participate. This action must be completed within sixty days after receipt of the redefined plan.

(7) Once adopted by the planning committee, the plan must be forwarded to the participating county legislative authorities to initiate the election process under RCW 36.120.070. The planning committee shall at the same time provide notice to each city and town within the district, the governor, the chairs of the transportation committees of the legislature, the secretary of transportation, and each legislator whose legislative district is partially or wholly within the boundaries of the district.

(8) If the ballot measure is not approved, the planning committee may redefine the selected transportation projects, financing plan, and the ballot measure. The county legislative authorities may approve the new plan and ballot measure, and may then submit the revised proposition to the voters at the next election or a special election. If no ballot measure is approved by the voters by the third vote, the planning committee is dissolved.

Sec. 19. RCW 36.120.045 and 2006 c 311 s 7 are each amended to read as follows:

The planning committee must develop and include in the regional transportation investment plan a funding proposal for the

state route number 520 bridge replacement and HOV project that assures full project funding for seismic safety and corridor connectivity on state route number 520 between Interstate 5 and Interstate 405 without assessing tolls on either state route number 520 or Interstate 90 across Lake Washington."

Correct the title.

Renumber the sections consecutively and correct any internal references.

POINT OF ORDER

Representative Springer requested a scope and object ruling on the amendment (612).

SPEAKER'S RULING

The Speaker (Representative Lovick presiding): "Substitute Senate Bill No. 5412 is entitled AN ACT Relating to "realigning goals, objection, and responsibilities of certain transportation agencies."

The bill as passed by the Senate specifies five policy goals for the planning, operation, performance of, and investment in the state's transportation system, and directs the Office of Financial Management to establish objectives and performance measures for state transportation agencies to assure that transportation system performance attains the specified policy goals. Various duties of certain transportation agencies are revised to ensure they are performed consistent with the revised policy goals, objectives and performance measures. The bill also clarifies the state's responsibility for highways of statewide significance.

Amendment 612 is not related to realigning goals, objectives and responsibilities of certain transportation agencies, nor to objective performance measurement of the achievement of such goals. Rather, the amendment deals with funding for specified transportation projects and directs which revenue sources may be used and in what amounts.

The bill's purpose is defining planning goals and objectives, clarifying responsibilities of transportation agencies and establishing performance measurements for those goals, objectives and responsibilities. The amendment's purpose is funding for specified transportation projects. The Speaker therefore finds that the amendment is beyond the scope and object of the bill.

Representative Springer, your point of order is well taken."

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House was placed on final passage.

Representatives Clibborn and Jarrett spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5412, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5412, as amended by the House and the bill passed the House by the following vote: Yeas - 97, Nays - 1, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Buri, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Eickmeyer, Ericks, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hailey, Haler, Hankins, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 97.

Voting nay: Representative Ericksen - 1.

SUBSTITUTE SENATE BILL NO. 5412, as amended by the House, having received the necessary constitutional majority, was declared passed.

SUBSTITUTE SENATE BILL NO. 5676, By Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Keiser, Kohl-Welles, Murray, Prentice, Hatfield and Kline)

Revising provision for receipt of temporary total disability.

The bill was read the second time.

With the consent of the House, amendment (627) was withdrawn.

Representative Condotta moved the adoption of amendment (637):

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 51.32.090 and 1993 c 521 s 3, 1993 c 299 s 1, and 1993 c 271 s 1 are each reenacted and amended to read as follows:

(1) When the total disability is only temporary, the schedule of payments contained in RCW 51.32.060 (1) and (2) shall apply, so long as the total disability continues.

(2) Any compensation payable under this section for children not in the custody of the injured worker as of the date of injury shall be payable only to such person as actually is providing the support for such child or children pursuant to the order of a court of record providing for support of such child or children.

(3)(a) As soon as recovery is so complete that the present earning power of the worker, at any kind of work, is restored to that existing at the time of the occurrence of the injury, the payments shall cease. If and so long as the present earning power is only partially restored, the payments shall:

(i) For claims for injuries that occurred before May 7, 1993, continue in the proportion which the new earning power shall bear to the old; or

(ii) For claims for injuries occurring on or after May 7, 1993, equal eighty percent of the actual difference between the worker's present wages and earning power at the time of injury, but: (A) The total of these payments and the worker's present wages may not exceed one hundred fifty percent of the average monthly wage in the state as computed under RCW 51.08.018; (B) the payments may not exceed one hundred percent of the entitlement as computed under subsection (1) of this section; and (C) the payments may not be less than the worker would have received if (a)(i) of this subsection had been applicable to the worker's claim.

(b) No compensation shall be payable under this subsection (3) unless the loss of earning power shall exceed five percent.

(c) The prior closure of the claim or the receipt of permanent partial disability benefits shall not affect the rate at which loss of earning power benefits are calculated upon reopening the claim.

(4)(a) Whenever the employer of injury requests that a worker who is entitled to temporary total disability under this chapter be certified by a physician as able to perform available work other than his or her usual work, the employer shall furnish to the physician, with a copy to the worker, a statement describing the work available with the employer of injury in terms that will enable the physician to relate the physical activities of the job to the worker's disability. The physician shall then determine whether the worker is physically able to perform the work described. The worker's temporary total disability payments shall continue until the worker is released by his or her physician for the work, and begins the work with the employer of injury. If the work thereafter comes to an end before the worker's recovery is sufficient in the judgment of his or her physician to permit him or her to return to his or her usual job, or to perform other available work offered by the employer of injury, the worker's temporary total disability payments shall be resumed. Should the available work described, once undertaken by the worker, impede his or her recovery to the extent that in the judgment of his or her physician he or she should not continue to work, the worker's temporary total disability payments shall be resumed when the worker ceases such work.

(b) Once the worker returns to work under the terms of this subsection (4), he or she shall not be assigned by the employer to work other than the available work described without the worker's written consent, or without prior review and approval by the worker's physician.

(c) If the worker returns to work under this subsection (4), any employee health and welfare benefits that the worker was receiving at the time of injury shall continue or be resumed at the level provided at the time of injury. Such benefits shall not be continued or resumed if to do so is inconsistent with the terms of the benefit program, or with the terms of the collective bargaining agreement currently in force.

(d) In the event of any dispute as to the worker's ability to perform the available work offered by the employer, the department shall make the final determination.

(5) No worker shall receive compensation for or during the day on which injury was received or the three days following the same, unless his or her disability shall continue for a period of fourteen consecutive calendar days from date of injury: PROVIDED, That attempts to return to work in the first fourteen days following the injury shall not serve to break the continuity of the period of disability if the disability continues fourteen days after the injury occurs.

(6) Should a worker suffer a temporary total disability and should his or her employer at the time of the injury continue to pay him or her the wages which he or she was earning at the time of such injury, such injured worker shall not receive any payment provided in subsection (1) of this section during the period his or her employer shall so pay such wages.

(7) In no event shall the monthly payments provided in this section exceed the applicable percentage of the average monthly wage in the state as computed under the provisions of RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

(8) If the supervisor of industrial insurance determines that the worker is voluntarily retired and is no longer attached to the work force, benefits shall not be paid under this section.

NEW SECTION. Sec. 2. (1) The workers' compensation advisory committee created under RCW 51.04.110 shall conduct a study of policies created by the department of labor and industries for industrial insurance claims in which an employer continues to pay a worker wages which he or she was earning at the time of injury in accordance with RCW 51.32.090(6), including identifying the number of claims in which holiday pay, vacation pay, sick leave, or other similar benefits were deemed payments by the employer for the purposes of RCW 51.32.090(6).

(2) The workers' compensation advisory committee created under RCW 51.04.110 shall report the results of the study to the house of representatives commerce and labor committee and the senate labor, commerce, research, and development committee by December 1, 2007. The report must include recommendations on whether further legislative action is necessary."

Correct the title.

Representative Condotta spoke in favor of the adoption of the amendment.

Representative Conway spoke against the adoption of the amendment.

The amendment was not adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representative Conway spoke in favor of passage of the bill.

Representative Condotta spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5676.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5676 and the bill passed the House by the following vote: Yeas - 69, Nays - 29, Absent - 0, Excused - 0.

Voting yea: Representatives Appleton, Barlow, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Eickmeyer, Ericks, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Kagi, Kelley, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, O'Brien, Ormsby, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rolfes, Santos, Schual-Berke, Seaquist, Sells, Simpson, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Williams, Wood and Mr. Speaker - 69.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buri, Chandler, Condotta, Crouse, Curtis, DeBolt, Dunn, Ericksen, Hailey, Haler, Hankins, Hinkle, Jarrett, Kretz, Kristiansen, McCune, Newhouse, Orcutt, Pearson, Rodne, Ross, Schindler, Skinner, and Warnick - 29.

SUBSTITUTE SENATE BILL NO. 5676, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote YEA on SUBSTITUTE SENATE BILL NO. 5676.

JIM MCCUNE, 2nd District

STATEMENT FOR THE JOURNAL

I intended to vote NAY on SUBSTITUTE SENATE BILL NO. 5676.

TROY KELLEY, 28th District

ENGROSSED SENATE BILL NO. 5508, By Senators Kilmer, Zarelli, Hatfield, Schoesler, Holmquist, Kastama, Tom, Sheldon, Shin and Rasmussen

Providing for economic development project permitting.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Appropriations was not adopted. (For Committee amendment, see Journal, 85th Day, April 2, 2007.)

Representative Hunt moved the adoption of amendment (572):

On page 4, line 3, after "has" strike "a good record of providing information to" and insert "developed guidelines and information regarding its permitting process for"

On page 7, line 9, after "has" strike "a good record of providing information to" and insert "developed guidelines and information regarding its permitting process for"

On page 7, starting on line 21, strike all of Section 4

On page 10, line 11, after "has" strike "a good record of providing information to" and insert "developed guidelines and information regarding its permitting process for"

On page 13, line 7, strike all of Section 10

Renummer the remaining sections accordingly, correct internal references, and correct the title.

Representative Alexander moved the adoption of amendment (629) to amendment (572):

On page 1, line 2 of the amendment, after "developed" insert "and adhered to"

On page 1, line 2 of the amendment, after "guidelines" strike "and information"

On page 1, line 5 of the amendment, after "developed" insert "and adhered to"

On page 1, line 5 of the amendment, after "guidelines" strike "and information"

On page 1, line 9 of the amendment, after "developed" insert "and adhered to"

On page 1, line 9 of the amendment, after "guidelines" strike "and information"

Representatives Alexander and Hunt spoke in favor of the adoption of the amendment to amendment (572).

The amendment to amendment (572) was adopted.

The question before the House was adoption of amendment (572) as amended.

Representative Hunt spoke in favor of the adoption of the amendment as amended.

The amendment as amended was adopted.

Representative Hunt moved the adoption of amendment (601):

On page 13, starting on line 1, strike all of Section 9

Renumber remaining sections accordingly and correct the title.

Representatives Hunt and Alexander spoke in favor of adoption of the amendment.

The amendment was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House was placed on final passage.

Representatives Hunt and Alexander spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Senate Bill No. 5508, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Senate Bill No. 5508, as amended by the House and the bill passed the House by the following vote: Yeas - 94, Nays - 4, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Buri, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Eickmeyer, Ericks, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hailey, Haler, Hankins, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, Miloscia, Moeller, Morrell, Morris, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 94.

Voting nay: Representatives Dunn, Ericksen, McIntire, and Schindler - 4.

ENGROSSED SENATE BILL NO. 5508, as amended by the House, having received the necessary constitutional majority, was declared passed.

SENATE BILL NO. 5088, By Senators Haugen, Swecker and Shin

Regulating ferry queues.

The bill was read the second time.

Representative Schindler moved the adoption of amendment (653):

On page 1, at the beginning of line 6, insert "(1)"

On page 2, after line 15, insert:

"(2) Subsection (1) of this section does not apply to a driver of a motor vehicle intending to board the Keller Ferry on State Route 21."

Representatives Schindler and Clibborn spoke in favor of the adoption of the amendment.

The amendment was adopted.

Representative Strow moved the adoption of amendment (645):

On page 1, line 6, after "is" strike "a traffic infraction" and insert "unlawful"

On page 1, line 12, after "section." insert "A violation of this section is a class C felony punishable according to chapter 9A.20 RCW."

Correct the title.

Representative Strow spoke in favor of the adoption of the amendment.

Representative Clibborn spoke against the adoption of the amendment.

The amendment was not adopted.

Representative Rolfes moved the adoption of amendment (605):

On page 1, line 15, after "ferry." insert "Violations of this section are not part of the vehicle driver's driving record under RCW 46.52.101 and 46.52.120."

Representative Rolfes spoke in favor of the adoption of the amendment.

The amendment was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House was placed on final passage.

Representatives Clibborn and Jarrett spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5088, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5088, as amended by the House and the bill passed the House by the following vote: Yeas - 87, Nays - 11, Absent - 0, Excused - 0.

Voting yea: Representatives Alexander, Appleton, Armstrong, Bailey, Barlow, Blake, Buri, Campbell, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hailey, Haler, Hankins, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, O'Brien, Orcutt, Ormsby, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Santos, Schindler, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 87.

Voting nay: Representatives Ahern, Anderson, Chandler, Dunn, Ericksen, Hurst, Kristiansen, Newhouse, Pearson, Ross and Schindler - 11.

SENATE BILL NO. 5088, as amended by the House, having received the necessary constitutional majority, was declared passed.

SENATE BILL NO. 5551, By Senators Prentice, Kohl-Welles, Clements and Rasmussen; by request of Liquor Control Board

Enhancing enforcement of liquor and tobacco laws.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Finance was adopted. (For Committee amendment, see Journal, 85th Day, April 2, 2007.)

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House was placed on final passage.

Representatives Wood, Condotta, Hunter and Orcutt spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5551, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5551, as amended by the House and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Buri, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hailey, Haler, Hankins, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 98.

SENATE BILL NO. 5551, as amended by the House, having received the necessary constitutional majority, was declared passed.

SUBSTITUTE SENATE BILL NO. 5881, By Senate Committee on Water, Energy & Telecommunications (originally sponsored by Senators Poulsen, Delvin, Regala and Fraser; by request of Department of Ecology)

Modifying water power license fees.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Appropriations was before the House for purpose of amendment. (For Committee amendment, see Journal, 85th Day, April 2, 2007.)

Representative Kretz moved the adoption of amendment (646) to the committee amendment:

On page 1, line 7, after "Washington for" strike "power development" and insert "~~((power development))~~ development of green power"

On page 3, line 12, after "pumping." insert:

"(3) For the purposes of this section, "green power" means all electric power developed by hydroelectric facilities within or bordering upon the state of Washington."

Representative Kretz spoke in favor of the adoption of the amendment to the committee amendment.

Representative B. Sullivan spoke against the adoption of the amendment to the committee amendment.

The amendment to the committee amendment was not adopted.

The committee amendment was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House was placed on final passage.

Representative B. Sullivan spoke in favor of passage of the bill.

Representative Kretz spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5881, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5881, as amended by the House and the bill passed the House by the following vote: Yeas - 65, Nays - 33, Absent - 0, Excused - 0.

Voting yea: Representatives Appleton, Barlow, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Eickmeyer, Ericks, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Newhouse, O'Brien, Ormsby, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Schual-Berke, Seaquist, Sells, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Upthegrove, Van De Wege, Wallace, Williams, Wood and Mr. Speaker - 65.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buri, Chandler, Condotta, Crouse, Curtis, Dunn, Ericksen, Hailey, Haler, Hankins, Hinkle, Hurst, Kretz, Kristiansen, McCune, McDonald, Orcutt, Pearson, Priest, Roach, Rodne, Ross, Schindler, Skinner, Strow, Sump, Walsh and Warnick - 33.

SUBSTITUTE SENATE BILL NO. 5881, as amended by the House, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote NAY on SUBSTITUTE SENATE BILL NO. 5881.

TROY KELLEY, 28th District

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5862, By Senate Committee on Ways & Means (originally sponsored by Senators Kilmer, Rockefeller, Poulsen, Kohl-Welles and Kline)

Regarding passenger-only ferry service.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Transportation was before the House for purpose of amendment. (For Committee amendment, see Journal, 85th Day, April 2, 2007.)

Representative Appleton moved the adoption of amendment (471) to the committee amendment:

Beginning on page 4, line 27 of the amendment, strike all of section 8

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

On page 7, beginning on line 19 of the amendment, after "immediately" strike ", except for section 8 of this act which takes effect July 1, 2008"

Representative Appleton spoke in favor of the adoption of the amendment to the committee amendment.

The amendment to the committee amendment was adopted.

Representative Bailey moved the adoption of amendment (620) to the committee amendment:

On page 7, beginning on line 16 of the amendment, strike all of section 12 and insert the following:

"NEW SECTION. Sec. 12. Section 8 of this act takes effect July 1, 2008."

Correct the title.

Representative Bailey spoke in favor of the adoption of the amendment to the committee amendment.

Representative Clibborn spoke against the adoption of the amendment to the committee amendment.

The amendment to the committee amendment was not adopted.

The committee amendment as amended was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House was placed on final passage.

Representatives Clibborn and Jarrett spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Second Substitute Senate Bill No. 5862, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5862, as amended by the House and the bill passed the House by the following vote: Yeas - 96, Nays - 2, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Buri, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Eickmeyer, Ericks, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hailey, Haler, Hankins, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 96.

Voting nay: Representatives Ericksen and Kristiansen - 2.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5862, as amended by the House, having received the necessary constitutional majority, was declared passed.

The Speaker assumed the chair.

SECOND READING

SUBSTITUTE SENATE BILL NO. 5972, By Senate Committee on Natural Resources, Ocean & Recreation (originally sponsored by Senators Morton, Jacobsen, Swecker, Rockefeller, Poulsen, Rasmussen, Hargrove and Shin)

Providing the department of natural resources with more consistent enforcement authority for protection against mining without a permit.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives B. Sullivan and Kretz spoke in favor of passage of the bill.

The Speaker stated the question before the House to be the final passage of Substitute Senate Bill No. 5972.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5972 and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Buri, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hailey, Haler, Hankins, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 98.

SUBSTITUTE SENATE BILL NO. 5972, having received the necessary constitutional majority, was declared passed.

SUBSTITUTE SENATE BILL NO. 5336, By Senate Committee on Government Operations & Elections (originally sponsored by Senators Murray, Kohl-Welles, Fairley, Prentice, Regala, Oemig, Tom, Kline, Hobbs, Pridemore, Keiser, Berkey, Franklin, Brown, Weinstein, Rockefeller, Poulsen, Fraser, Jacobsen, Spanel and McAuliffe)

Protecting individuals in domestic partnerships by granting certain rights and benefits.

The bill was read the second time.

With the consent of the House, amendment (659) was withdrawn.

Representative Rodne moved the adoption of amendment (656):

On page 33, after line 18, insert the following:

"NEW SECTION. Sec. 34. If any provision of this act or its application to any person or circumstance is held invalid, the act shall be considered invalid in its entirety, and the act and the application of any provision of the act to any person or circumstance shall be considered null and void and of no effect."

Correct the title.

Representatives Rodne and Ericksen spoke in favor of the adoption of the amendment.

Representatives Lantz and Pedersen spoke against the adoption of the amendment.

The amendment was not adopted.

Representative Anderson moved the adoption of amendment (661):

On page 33, after line 18, insert the following:

"NEW SECTION. Sec. 34. The secretary of state shall submit this act to the people for their adoption and ratification, or rejection, at the next general election to be held in this state, in accordance with Article II, section 1 of the state Constitution and the laws adopted to facilitate its operation."

Correct the title

Representative Anderson spoke in favor of the adoption of the amendment.

Representative Lantz spoke against the adoption of the amendment.

An electronic roll call was requested.

The Speaker stated the question before the House to be adoption of amendment (661) to Substitute Senate Bill No. 5336.

ROLL CALL

The Clerk called the roll on the adoption of amendment (661) to Substitute Senate Bill No. 5336, and the amendment was not adopted by the following vote: Yeas - 35, Nays - 63, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buri, Chandler, Condotta, Crouse, Curtis, DeBolt, Dunn, Ericksen, Hailey, Haler, Hinkle, Kelley, Kretz, Kristiansen, McCune, McDonald, Miloscia, Newhouse, Orcutt, Pearson, Priest, Roach, Rodne, Ross, Schindler, Skinner, Strow, Sump, Wallace and Warnick - 35.

Voting nay: Representatives Appleton, Barlow, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Eickmeyer, Ericks, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hankins,

Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Moeller, Morrell, Morris, O'Brien, Ormsby, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Schual-Berke, Seaquist, Sells, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Upthegrove, Van De Wege, Walsh, Williams, Wood and Mr. Speaker - 63.

Representative Miloscia moved the adoption of amendment (652):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The purpose of this chapter is to extend certain rights and obligations to two adults who provide mutual care and support for each other, but are legally prohibited from marrying each other under RCW 26.04.020.

(2) The legislature finds that the people of Washington have chosen to limit marriage to the union of one man and one woman. As such, marriage is subject to restrictions, such as the prohibitions under RCW 26.04.020 between parties who are first cousins or nearer of kin to each other or who are of the same sex.

(3) The legislature recognizes that many choose to live in relationships that include financial interdependence and other mutual care and support. The state has an interest in promoting these relationships to encourage private dependencies rather than reliance on state benefits. The legislature recognizes that these mutually beneficial relationships would be assisted if certain rights, benefits, and obligations were made available to them. Examples include two individuals who are related to each other such as a widowed mother and her unmarried daughter, a grandmother caring for her grandson, or unrelated adults of the same gender.

(4) The legislature finds that certain rights, benefits, and obligations should be extended to two adults who seek to mutually care for each other.

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

(1) "Domestic partners" means two adults who meet the requirements of section 3 of this act.

(2) "Secretary" means the secretary of state's office.

NEW SECTION. Sec. 3. Two adults are considered domestic partners when the following requirements are met:

(1) Both are at least eighteen years of age;

(2) Neither is married to another person or in a domestic partnership with another person;

(3) Both are capable of consenting to the partnership without fraud or duress;

(4) They share a common residence;

(5) They are legally prohibited from marrying each other under RCW 26.04.020;

(6) They execute a mutual beneficiary contract provided by the secretary; and

(7) They file the mutual beneficiary contract with the secretary.

NEW SECTION. Sec. 4. (1) Two adults who meet the criteria in section 3(1) through (5) of this act may enter into a mutual beneficiary contract and file a "declaration of domestic partners in a mutual beneficiary contract" with the secretary. Upon receipt of a

signed, notarized declaration and the filing fee, the secretary shall provide a copy of the declaration to both parties. The secretary shall maintain a record of each declaration filed with the secretary.

(2) An adult who is a domestic partner in a mutual beneficiary contract filed with the secretary, may terminate the domestic partnership by filing a signed, notarized "termination of domestic partnership" with the secretary and pay a filing fee. The party seeking to terminate the partnership must include in his or her filing an affidavit stating that the other party has received notice of the termination.

(3) Upon receipt of a signed, notarized termination of domestic partnership, filing fee, and affidavit, the secretary shall provide a copy of the termination of domestic partnership to each of the parties to the domestic partnership. The secretary shall maintain a record of each termination of domestic partnership filed with the secretary.

(4) The secretary shall create forms entitled "declaration of domestic partners in a mutual beneficiary contract" and "termination of domestic partnership" and shall make those forms available to the public. The secretary shall set and collect a fee, not to exceed fifty dollars, for filing a declaration of domestic partnership and a fee, not to exceed fifty dollars, for filing a termination of domestic partnership. The secretary is authorized to adopt rules to administer this chapter.

NEW SECTION. Sec. 5. Domestic partners shall have the rights and benefits provided under this act. Nothing in this act may be construed to create any rights, benefits, protections, or responsibilities not specifically enumerated in this act.

NEW SECTION. Sec. 6. (1) A domestic partnership created by a subdivision of the state is not a domestic partnership for the purposes of this chapter. Those persons desiring to become state registered domestic partners under this chapter must register pursuant to section 5 of this act. Nothing in this act shall affect domestic partnerships created by any public entity.

(2) A domestic partnership, civil union, or other relationship recognized by another state or jurisdiction that confers some or all of the benefits, rights, or obligations of marriage to persons who would not be eligible to marry in the state of Washington shall be deemed to have executed a declaration of domestic partners in a mutual beneficiary contract under this chapter, provided they would qualify for a mutual beneficiary contract under section 3 of this act.

NEW SECTION. Sec. 7. A patient's domestic partner shall have the same rights as a spouse with respect to visitation of the patient in a health care facility as defined in RCW 48.43.005.

NEW SECTION. Sec. 8. A new section is added to chapter 41.05 RCW to read as follows:

A declaration of domestic partnership issued to a couple of the same sex under the provisions of section 4 of this act shall be recognized as evidence of a qualified same sex domestic partnership fulfilling all necessary eligibility criteria for the partner of the employee to receive benefits. Nothing in this section affects the requirements of same sex domestic partners to complete documentation related to federal tax status that may currently be required by the board for employees choosing to make premium payments on a pretax basis.

Sec. 9. RCW 41.05.065 and 2006 c 299 s 2 are each amended to read as follows:

(1) The board shall study all matters connected with the provision of health care coverage, life insurance, liability insurance, accidental death and dismemberment insurance, and disability income insurance or any of, or a combination of, the enumerated types of insurance for employees and their dependents on the best basis possible with relation both to the welfare of the employees and to the state. However, liability insurance shall not be made available to dependents.

(2) The board shall develop employee benefit plans that include comprehensive health care benefits for all employees. In developing these plans, the board shall consider the following elements:

(a) Methods of maximizing cost containment while ensuring access to quality health care;

(b) Development of provider arrangements that encourage cost containment and ensure access to quality care, including but not limited to prepaid delivery systems and prospective payment methods;

(c) Wellness incentives that focus on proven strategies, 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;

(d) Utilization review procedures including, but not limited to a cost-efficient method for prior authorization of services, hospital inpatient length of stay review, requirements for use of outpatient surgeries and second opinions for surgeries, review of invoices or claims submitted by service providers, and performance audit of providers;

(e) Effective coordination of benefits;

(f) Minimum standards for insuring entities; and

(g) Minimum scope and content of public employee benefit plans to be offered to enrollees participating in the employee health benefit plans. To maintain the comprehensive nature of employee health care benefits, employee eligibility criteria related to the number of hours worked and the benefits provided to employees shall be substantially equivalent to the state employees' health benefits plan and eligibility criteria in effect on January 1, 1993. Nothing in this subsection (2)(g) shall prohibit changes or increases in employee point-of-service payments or employee premium payments for benefits or the administration of a high deductible health plan in conjunction with a health savings account.

(3) The board shall design benefits and determine the terms and conditions of employee and retired employee participation and coverage, including establishment of eligibility criteria subject to the requirements of section 8 of this act. The same terms and conditions of participation and coverage, including eligibility criteria, shall apply to state employees and to school district employees and educational service district employees.

(4) The board may authorize premium contributions for an employee and the employee's dependents in a manner that encourages the use of cost-efficient managed health care systems. During the 2005-2007 fiscal biennium, the board may only authorize premium contributions for an employee and the employee's dependents that are the same, regardless of an employee's status as represented or nonrepresented by a collective bargaining unit under the personnel system reform act of 2002. The board shall require participating school district and educational service district employees to pay at least the same employee premiums by plan and family size as state employees pay.

(5) The board shall develop a health savings account option for employees that conform to section 223, Part VII of subchapter B of chapter 1 of the internal revenue code of 1986. The board shall

comply with all applicable federal standards related to the establishment of health savings accounts.

(6) Notwithstanding any other provision of this chapter, the board shall develop a high deductible health plan to be offered in conjunction with a health savings account developed under subsection (5) of this section.

(7) Employees shall choose participation in one of the health care benefit plans developed by the board and may be permitted to waive coverage under terms and conditions established by the board.

(8) The board shall review plans proposed by insuring entities that desire to offer property insurance and/or accident and casualty insurance to state employees through payroll deduction. The board may approve any such plan for payroll deduction by insuring entities holding a valid certificate of authority in the state of Washington and which the board determines to be in the best interests of employees and the state. The board shall promulgate rules setting forth criteria by which it shall evaluate the plans.

(9) Before January 1, 1998, the public employees' benefits board shall make available one or more fully insured long-term care insurance plans that comply with the requirements of chapter 48.84 RCW. Such programs shall be made available to eligible employees, retired employees, and retired school employees as well as eligible dependents which, for the purpose of this section, includes the parents of the employee or retiree and the parents of the spouse of the employee or retiree. Employees of local governments and employees of political subdivisions not otherwise enrolled in the public employees' benefits board sponsored medical programs may enroll under terms and conditions established by the administrator, if it does not jeopardize the financial viability of the public employees' benefits board's long-term care offering.

(a) Participation of eligible employees or retired employees and retired school employees in any long-term care insurance plan made available by the public employees' benefits board is voluntary and shall not be subject to binding arbitration under chapter 41.56 RCW. Participation is subject to reasonable underwriting guidelines and eligibility rules established by the public employees' benefits board and the health care authority.

(b) The employee, retired employee, and retired school employee are solely responsible for the payment of the premium rates developed by the health care authority. The health care authority is authorized to charge a reasonable administrative fee in addition to the premium charged by the long-term care insurer, which shall include the health care authority's cost of administration, marketing, and consumer education materials prepared by the health care authority and the office of the insurance commissioner.

(c) To the extent administratively possible, the state shall establish an automatic payroll or pension deduction system for the payment of the long-term care insurance premiums.

(d) The public employees' benefits board and the health care authority shall establish a technical advisory committee to provide advice in the development of the benefit design and establishment of underwriting guidelines and eligibility rules. The committee shall also advise the board and authority on effective and cost-effective ways to market and distribute the long-term care product. The technical advisory committee shall be comprised, at a minimum, of representatives of the office of the insurance commissioner, providers of long-term care services, licensed insurance agents with expertise in long-term care insurance, employees, retired employees, retired school employees, and other interested parties determined to be appropriate by the board.

(e) The health care authority shall offer employees, retired employees, and retired school employees the option of purchasing

long-term care insurance through licensed agents or brokers appointed by the long-term care insurer. The authority, in consultation with the public employees' benefits board, shall establish marketing procedures and may consider all premium components as a part of the contract negotiations with the long-term care insurer.

(f) In developing the long-term care insurance benefit designs, the public employees' benefits board shall include an alternative plan of care benefit, including adult day services, as approved by the office of the insurance commissioner.

(g) The health care authority, with the cooperation of the office of the insurance commissioner, shall develop a consumer education program for the eligible employees, retired employees, and retired school employees designed to provide education on the potential need for long-term care, methods of financing long-term care, and the availability of long-term care insurance products including the products offered by the board.

(h) By December 1998, the health care authority, in consultation with the public employees' benefits board, shall submit a report to the appropriate committees of the legislature, including an analysis of the marketing and distribution of the long-term care insurance provided under this section.

Sec. 10. RCW 7.70.065 and 2006 c 93 s 1 are each amended to read as follows:

(1) Informed consent for health care for a patient who is not competent, as defined in RCW 11.88.010(1)(e), to consent may be obtained from a person authorized to consent on behalf of such patient.

(a) Persons authorized to provide informed consent to health care on behalf of a patient who is not competent to consent, based upon a reason other than incapacity as defined in RCW 11.88.010(1)(d), shall be a member of one of the following classes of persons in the following order of priority:

(i) The appointed guardian of the patient, if any;

(ii) The individual, if any, to whom the patient has given a durable power of attorney that encompasses the authority to make health care decisions;

(iii) The patient's spouse or domestic partner as defined under section 2 of this act;

(iv) Children of the patient who are at least eighteen years of age;

(v) Parents of the patient; and

(vi) Adult brothers and sisters of the patient.

(b) If the health care provider seeking informed consent for proposed health care of the patient who is not competent to consent under RCW 11.88.010(1)(e), other than a person determined to be incapacitated because he or she is under the age of majority and who is not otherwise authorized to provide informed consent, makes reasonable efforts to locate and secure authorization from a competent person in the first or succeeding class and finds no such person available, authorization may be given by any person in the next class in the order of descending priority. However, no person under this section may provide informed consent to health care:

(i) If a person of higher priority under this section has refused to give such authorization; or

(ii) If there are two or more individuals in the same class and the decision is not unanimous among all available members of that class.

(c) Before any person authorized to provide informed consent on behalf of a patient not competent to consent under RCW 11.88.010(1)(e), other than a person determined to be incapacitated because he or she is under the age of majority and who is not otherwise authorized to provide informed consent, exercises that

authority, the person must first determine in good faith that that patient, if competent, would consent to the proposed health care. If such a determination cannot be made, the decision to consent to the proposed health care may be made only after determining that the proposed health care is in the patient's best interests.

(2) Informed consent for health care, including mental health care, for a patient who is not competent, as defined in RCW 11.88.010(1)(e), because he or she is under the age of majority and who is not otherwise authorized to provide informed consent, may be obtained from a person authorized to consent on behalf of such a patient.

(a) Persons authorized to provide informed consent to health care, including mental health care, on behalf of a patient who is incapacitated, as defined in RCW 11.88.010(1)(e), because he or she is under the age of majority and who is not otherwise authorized to provide informed consent, shall be a member of one of the following classes of persons in the following order of priority:

(i) The appointed guardian, or legal custodian authorized pursuant to Title 26 RCW, of the minor patient, if any;

(ii) A person authorized by the court to consent to medical care for a child in out-of-home placement pursuant to chapter 13.32A or 13.34 RCW, if any;

(iii) Parents of the minor patient;

(iv) The individual, if any, to whom the minor's parent has given a signed authorization to make health care decisions for the minor patient; and

(v) A competent adult representing himself or herself to be a relative responsible for the health care of such minor patient or a competent adult who has signed and dated a declaration under penalty of perjury pursuant to RCW 9A.72.085 stating that the adult person is a relative responsible for the health care of the minor patient. Such declaration shall be effective for up to six months from the date of the declaration.

(b) A health care provider may, but is not required to, rely on the representations or declaration of a person claiming to be a relative responsible for the care of the minor patient, under (a)(v) of this subsection, if the health care provider does not have actual notice of the falsity of any of the statements made by the person claiming to be a relative responsible for the health care of the minor patient.

(c) A health care facility or a health care provider may, in its discretion, require documentation of a person's claimed status as being a relative responsible for the health care of the minor patient. However, there is no obligation to require such documentation.

(d) The health care provider or health care facility where services are rendered shall be immune from suit in any action, civil or criminal, or from professional or other disciplinary action when such reliance is based on a declaration signed under penalty of perjury pursuant to RCW 9A.72.085 stating that the adult person is a relative responsible for the health care of the minor patient under (a)(v) of this subsection.

(3) For the purposes of this section, "health care," "health care provider," and "health care facility" shall be defined as established in RCW 70.02.010.

Sec. 11. RCW 70.02.050 and 2006 c 235 s 3 are each amended to read as follows:

(1) A health care provider or health care facility may disclose health care information about a patient without the patient's authorization to the extent a recipient needs to know the information, if the disclosure is:

(a) To a person who the provider or facility reasonably believes is providing health care to the patient;

(b) To any other person who requires health care information for health care education, or to provide planning, quality assurance, peer review, or administrative, legal, financial, actuarial services to, or other health care operations for or on behalf of the health care provider or health care facility; or for assisting the health care provider or health care facility in the delivery of health care and the health care provider or health care facility reasonably believes that the person:

(i) Will not use or disclose the health care information for any other purpose; and

(ii) Will take appropriate steps to protect the health care information;

(c) To any other health care provider or health care facility reasonably believed to have previously provided health care to the patient, to the extent necessary to provide health care to the patient, unless the patient has instructed the health care provider or health care facility in writing not to make the disclosure;

(d) To any person if the health care provider or health care facility reasonably believes that disclosure will avoid or minimize an imminent danger to the health or safety of the patient or any other individual, however there is no obligation under this chapter on the part of the provider or facility to so disclose;

(e) To immediate family members of the patient, including a patient's domestic partner, as defined under section 2 of this act, or any other individual with whom the patient is known to have a close personal relationship, if made in accordance with good medical or other professional practice, unless the patient has instructed the health care provider or health care facility in writing not to make the disclosure;

(f) To a health care provider or health care facility who is the successor in interest to the health care provider or health care facility maintaining the health care information;

(g) For use in a research project that an institutional review board has determined:

(i) Is of sufficient importance to outweigh the intrusion into the privacy of the patient that would result from the disclosure;

(ii) Is impracticable without the use or disclosure of the health care information in individually identifiable form;

(iii) Contains reasonable safeguards to protect the information from redisclosure;

(iv) Contains reasonable safeguards to protect against identifying, directly or indirectly, any patient in any report of the research project; and

(v) Contains procedures to remove or destroy at the earliest opportunity, consistent with the purposes of the project, information that would enable the patient to be identified, unless an institutional review board authorizes retention of identifying information for purposes of another research project;

(h) To a person who obtains information for purposes of an audit, if that person agrees in writing to:

(i) Remove or destroy, at the earliest opportunity consistent with the purpose of the audit, information that would enable the patient to be identified; and

(ii) Not to disclose the information further, except to accomplish the audit or report unlawful or improper conduct involving fraud in payment for health care by a health care provider or patient, or other unlawful conduct by the health care provider;

(i) To an official of a penal or other custodial institution in which the patient is detained;

(j) To provide directory information, unless the patient has instructed the health care provider or health care facility not to make the disclosure;

(k) To fire, police, sheriff, or another public authority, that brought, or caused to be brought, the patient to the health care facility or health care provider if the disclosure is limited to the patient's name, residence, sex, age, occupation, condition, diagnosis, estimated or actual discharge date, or extent and location of injuries as determined by a physician, and whether the patient was conscious when admitted;

(l) To federal, state, or local law enforcement authorities and the health care provider, health care facility, or third-party payor believes in good faith that the health care information disclosed constitutes evidence of criminal conduct that occurred on the premises of the health care provider, health care facility, or third-party payor;

(m) To another health care provider, health care facility, or third-party payor for the health care operations of the health care provider, health care facility, or third-party payor that receives the information, if each entity has or had a relationship with the patient who is the subject of the health care information being requested, the health care information pertains to such relationship, and the disclosure is for the purposes described in RCW 70.02.010(8) (a) and (b); or

(n) For payment.

(2) A health care provider shall disclose health care information about a patient without the patient's authorization if the disclosure is:

(a) To federal, state, or local public health authorities, to the extent the health care provider is required by law to report health care information; when needed to determine compliance with state or federal licensure, certification or registration rules or laws; or when needed to protect the public health;

(b) To federal, state, or local law enforcement authorities to the extent the health care provider is required by law;

(c) To federal, state, or local law enforcement authorities, upon receipt of a written or oral request made to a nursing supervisor, administrator, or designated privacy official, in a case in which the patient is being treated or has been treated for a bullet wound, gunshot wound, powder burn, or other injury arising from or caused by the discharge of a firearm, or an injury caused by a knife, an ice pick, or any other sharp or pointed instrument which federal, state, or local law enforcement authorities reasonably believe to have been intentionally inflicted upon a person, or a blunt force injury that federal, state, or local law enforcement authorities reasonably believe resulted from a criminal act, the following information, if known:

(i) The name of the patient;

(ii) The patient's residence;

(iii) The patient's sex;

(iv) The patient's age;

(v) The patient's condition;

(vi) The patient's diagnosis, or extent and location of injuries as determined by a health care provider;

(vii) Whether the patient was conscious when admitted;

(viii) The name of the health care provider making the determination in (c)(v), (vi), and (vii) of this subsection;

(ix) Whether the patient has been transferred to another facility; and

(x) The patient's discharge time and date;

(d) To county coroners and medical examiners for the investigations of deaths;

(e) Pursuant to compulsory process in accordance with RCW 70.02.060.

(3) All state or local agencies obtaining patient health care information pursuant to this section shall adopt rules establishing their record acquisition, retention, and security policies that are consistent with this chapter.

Sec. 12. RCW 11.07.010 and 2002 c 18 s 1 are each amended to read as follows:

(1) This section applies to all nonprobate assets, wherever situated, held at the time of entry by a superior court of this state of a decree of dissolution of marriage or a declaration of invalidity or termination of a domestic partnership.

(2)(a) If a marriage is dissolved or invalidated, or a domestic partnership terminated, a provision made prior to that event that relates to the payment or transfer at death of the decedent's interest in a nonprobate asset in favor of or granting an interest or power to the decedent's former spouse or domestic partner, is revoked. A provision affected by this section must be interpreted, and the nonprobate asset affected passes, as if the former spouse or former domestic partner, failed to survive the decedent, having died at the time of entry of the decree of dissolution or declaration of invalidity or termination of domestic partnership.

(b) This subsection does not apply if and to the extent that:

(i) The instrument governing disposition of the nonprobate asset expressly provides otherwise;

(ii) The decree of dissolution ~~((or))~~ declaration of invalidity, or other court order requires that the decedent maintain a nonprobate asset for the benefit of a former spouse or former domestic partner or children of the marriage or children of the domestic partnership, payable on the decedent's death either outright or in trust, and other nonprobate assets of the decedent fulfilling such a requirement for the benefit of the former spouse or former domestic partner or children of the marriage or domestic partnership do not exist at the decedent's death; or

(iii) If not for this subsection, the decedent could not have effected the revocation by unilateral action because of the terms of the decree ~~((or))~~ declaration, termination of domestic partnership, or for any other reason, immediately after the entry of the decree of dissolution ~~((or))~~ declaration of invalidity, or termination of domestic partnership.

(3)(a) A payor or other third party in possession or control of a nonprobate asset at the time of the decedent's death is not liable for making a payment or transferring an interest in a nonprobate asset to a decedent's former spouse or domestic partner, whose interest in the nonprobate asset is revoked under this section, or for taking another action in reliance on the validity of the instrument governing disposition of the nonprobate asset, before the payor or other third party has actual knowledge of the dissolution or other invalidation of marriage or termination of the domestic partnership. A payor or other third party is liable for a payment or transfer made or other action taken after the payor or other third party has actual knowledge of a revocation under this section.

(b) This section does not require a payor or other third party to pay or transfer a nonprobate asset to a beneficiary designated in a governing instrument affected by the dissolution or other invalidation of marriage or termination of domestic partnership, or to another person claiming an interest in the nonprobate asset, if the payor or third party has actual knowledge of the existence of a dispute between the former spouse or former domestic partner, and the beneficiaries or other persons concerning rights of ownership of the nonprobate asset as a result of the application of this section among the former spouse or former domestic partner, and the beneficiaries or among other persons, or if the payor or third party is otherwise uncertain as to who is entitled to the nonprobate asset under this section. In such a case, the payor or third party may, without liability, notify in writing all beneficiaries or other persons claiming an interest in the nonprobate asset of either the existence of the dispute or its uncertainty as to who is entitled to payment or transfer

of the nonprobate asset. The payor or third party may also, without liability, refuse to pay or transfer a nonprobate asset in such a circumstance to a beneficiary or other person claiming an interest until the time that either:

(i) All beneficiaries and other interested persons claiming an interest have consented in writing to the payment or transfer; or

(ii) The payment or transfer is authorized or directed by a court of proper jurisdiction.

(c) Notwithstanding subsections (1) and (2) of this section and (a) and (b) of this subsection, a payor or other third party having actual knowledge of the existence of a dispute between beneficiaries or other persons concerning rights to a nonprobate asset as a result of the application of this section may condition the payment or transfer of the nonprobate asset on execution, in a form and with security acceptable to the payor or other third party, of a bond in an amount that is double the fair market value of the nonprobate asset at the time of the decedent's death or the amount of an adverse claim, whichever is the lesser, or of a similar instrument to provide security to the payor or other third party, indemnifying the payor or other third party for any liability, loss, damage, costs, and expenses for and on account of payment or transfer of the nonprobate asset.

(d) As used in this subsection, "actual knowledge" means, for a payor or other third party in possession or control of the nonprobate asset at or following the decedent's death, written notice to the payor or other third party, or to an officer of a payor or third party in the course of his or her employment, received after the decedent's death and within a time that is sufficient to afford the payor or third party a reasonable opportunity to act upon the knowledge. The notice must identify the nonprobate asset with reasonable specificity. The notice also must be sufficient to inform the payor or other third party of the revocation of the provisions in favor of the decedent's spouse or domestic partner, by reason of the dissolution or invalidation of marriage or termination of domestic partnership, or to inform the payor or third party of a dispute concerning rights to a nonprobate asset as a result of the application of this section. Receipt of the notice for a period of more than thirty days is presumed to be received within a time that is sufficient to afford the payor or third party a reasonable opportunity to act upon the knowledge, but receipt of the notice for a period of less than five business days is presumed not to be a sufficient time for these purposes. These presumptions may be rebutted only by clear and convincing evidence to the contrary.

(4)(a) A person who purchases a nonprobate asset from a former spouse, former domestic partner, or other person, for value and without actual knowledge, or who receives from a former spouse, former domestic partner, or other person payment or transfer of a nonprobate asset without actual knowledge and in partial or full satisfaction of a legally enforceable obligation, is neither obligated under this section to return the payment, property, or benefit nor is liable under this section for the amount of the payment or the value of the nonprobate asset. However, a former spouse, former domestic partner, or other person who, with actual knowledge, not for value, or not in satisfaction of a legally enforceable obligation, receives payment or transfer of a nonprobate asset to which that person is not entitled under this section is obligated to return the payment or nonprobate asset, or is personally liable for the amount of the payment or value of the nonprobate asset, to the person who is entitled to it under this section.

(b) As used in this subsection, "actual knowledge" means, for a person described in (a) of this subsection who purchases or receives a nonprobate asset from a former spouse, former domestic partner, or other person, personal knowledge or possession of documents

relating to the revocation upon dissolution or invalidation of marriage of provisions relating to the payment or transfer at the decedent's death of the nonprobate asset, received within a time after the decedent's death and before the purchase or receipt that is sufficient to afford the person purchasing or receiving the nonprobate asset reasonable opportunity to act upon the knowledge. Receipt of the personal knowledge or possession of the documents for a period of more than thirty days is presumed to be received within a time that is sufficient to afford the payor or third party a reasonable opportunity to act upon the knowledge, but receipt of the notice for a period of less than five business days is presumed not to be a sufficient time for these purposes. These presumptions may be rebutted only by clear and convincing evidence to the contrary.

(5) As used in this section, "nonprobate asset" means those rights and interests of a person having beneficial ownership of an asset that pass on the person's death under only the following written instruments or arrangements other than the decedent's will:

(a) A payable-on-death provision of a life insurance policy, employee benefit plan, annuity or similar contract, or individual retirement account, unless provided otherwise by controlling federal law;

(b) A payable-on-death, trust, or joint with right of survivorship bank account;

(c) A trust of which the person is a grantor and that becomes effective or irrevocable only upon the person's death; or

(d) Transfer on death beneficiary designations of a transfer on death or pay on death security, if such designations are authorized under Washington law.

For the general definition in this title of "nonprobate asset," see RCW 11.02.005(15) and for the definition of "nonprobate asset" relating to testamentary disposition of nonprobate assets, see RCW 11.11.010(7).

(6) This section is remedial in nature and applies as of July 25, 1993, to decrees of dissolution and declarations of invalidity entered after July 24, 1993, and this section applies as of January 1, 1995, to decrees of dissolution and declarations of invalidity entered before July 25, 1993.

(7) For the purposes of this section, "domestic partner" means "domestic partner" as defined under section 2 of this act.

Sec. 13. RCW 11.94.080 and 2001 c 203 s 1 are each amended to read as follows:

(1) An appointment of a principal's spouse or domestic partner as defined under section 2 of this act, as attorney in fact, including appointment as successor or coattorney in fact, under a power of attorney shall be revoked upon entry of a decree of dissolution or legal separation or declaration of invalidity of the marriage or termination of the domestic partnership of the principal and the attorney in fact, unless the power of attorney or the decree provides otherwise. The effect of this revocation shall be as if the spouse or domestic partner, resigned as attorney in fact, or if named as successor attorney in fact, renounced the appointment, as of the date of entry of the decree or declaration or filing of the termination of the domestic partnership, and the power of attorney shall otherwise remain in effect with respect to appointments of other persons as attorney in fact for the principal or procedures prescribed in the power of attorney to appoint other persons, and any terms relating to service by persons as attorney in fact.

(2) This section applies to all decrees of dissolution and declarations of invalidity of marriage entered after July 22, 2001.

Sec. 14. RCW 68.32.020 and 2005 c 365 s 92 are each amended to read as follows:

The spouse or domestic partner as defined under section 2 of this act, of an owner of any plot or right of interment containing more than one placement space has a vested right of placement in the plot and any person thereafter becoming the spouse or domestic partner, of the owner has a vested right of placement in the plot if more than one space is unoccupied at the time the person becomes the spouse or domestic partner, of the owner.

Sec. 15. RCW 68.32.030 and 2005 c 365 s 93 are each amended to read as follows:

No conveyance or other action of the owner without the written consent of the spouse or domestic partner as defined under section 2 of this act, of the owner divests the spouse or domestic partner, of a vested right of placement. A final decree of divorce between them or termination of the domestic partnership terminates the vested right of placement unless otherwise provided in the decree.

Sec. 16. RCW 68.32.040 and 2005 c 365 s 94 are each amended to read as follows:

If no placement is made in a plot or right of interment, which has been transferred by deed or certificate of ownership to an individual owner, the title descends to the surviving spouse or domestic partner as defined under section 2 of this act. If there is no surviving spouse or domestic partner, the title descends to the heirs at law of the owner. Following death of the owner, if all remains previously placed are lawfully removed and the owner did not dispose of the plot or right of interment by specific devise or by a written declaration filed and recorded in the office of the cemetery authority, the title descends to the surviving spouse or domestic partner. If there is no surviving spouse or domestic partner, the title descends to the heirs at law of the owner.

Sec. 17. RCW 68.32.060 and 2005 c 365 s 96 are each amended to read as follows:

Whenever an interment of the human remains of a member or of a relative of a member of the family of the record owner or of the remains of the record owner is made in a plot transferred by deed or certificate of ownership to an individual owner and both the owner and the surviving spouse or domestic partner as defined under section 2 of this act, if any, die with children then living without making disposition of the plot either by a specific devise, or by a written declaration filed and recorded in the office of the cemetery authority, the plot shall thereafter be held as a family plot and shall be subject to sale only upon agreement of the children of the owner living at the time of sale.

Sec. 18. RCW 68.32.110 and 2005 c 365 s 101 are each amended to read as follows:

In a family plot one right of interment may be used for the owner's interment and one for the owner's surviving spouse or domestic partner as defined under section 2 of this act, if any. Any unoccupied spaces may then be used by the remaining parents and children of the deceased owner, if any, then to the spouse or domestic partner of any child of the owner, then to the heirs at law of the owner, in the order of death.

Sec. 19. RCW 68.32.130 and 2005 c 365 s 102 are each amended to read as follows:

Any surviving spouse, domestic partner as defined under section 2 of this act, parent, child, or heir having a right of placement in a

family plot may waive such right in favor of any other relative ((~~or~~), spouse, or domestic partner of a relative of the deceased owner. Upon such a waiver, the remains of the person in whose favor the waiver is made may be placed in the plot.

Sec. 20. RCW 68.50.100 and 2003 c 53 s 307 are each amended to read as follows:

(1) The right to dissect a dead body shall be limited to cases specially provided by statute or by the direction or will of the deceased; cases where a coroner is authorized to hold an inquest upon the body, and then only as he or she may authorize dissection; and cases where the spouse, domestic partner as defined under section 2 of this act, or next of kin charged by law with the duty of burial shall authorize dissection for the purpose of ascertaining the cause of death, and then only to the extent so authorized: PROVIDED, That the coroner, in his or her discretion, may make or cause to be made by a competent pathologist, toxicologist, or physician, an autopsy or postmortem in any case in which the coroner has jurisdiction of a body: PROVIDED, FURTHER, That the coroner may with the approval of the University of Washington and with the consent of a parent or guardian deliver any body of a deceased person under the age of three years over which he or she has jurisdiction to the University of Washington medical school for the purpose of having an autopsy made to determine the cause of death.

(2) Every person who shall make, cause, or procure to be made any dissection of a body, except as provided in this section, is guilty of a gross misdemeanor.

Sec. 21. RCW 68.50.101 and 1987 c 331 s 57 are each amended to read as follows:

Autopsy or post mortem may be performed in any case where authorization has been given by a member of one of the following classes of persons in the following order of priority:

- (1) The surviving spouse or domestic partner as defined under section 2 of this act;
- (2) Any child of the decedent who is eighteen years of age or older;
- (3) One of the parents of the decedent;
- (4) Any adult brother or sister of the decedent;
- (5) A person who was guardian of the decedent at the time of death;
- (6) Any other person or agency authorized or under an obligation to dispose of the remains of the decedent. The chief official of any such agency shall designate one or more persons to execute authorizations pursuant to the provisions of this section.

If the person seeking authority to perform an autopsy or post mortem makes reasonable efforts to locate and secure authorization from a competent person in the first or succeeding class and finds no such person available, authorization may be given by any person in the next class, in the order of descending priority. However, no person under this section shall have the power to authorize an autopsy or post mortem if a person of higher priority under this section has refused such authorization: PROVIDED, That this section shall not affect autopsies performed pursuant to RCW 68.50.010 or 68.50.103.

Sec. 22. RCW 68.50.105 and 1987 c 331 s 58 are each amended to read as follows:

Reports and records of autopsies or post mortems shall be confidential, except that the following persons may examine and obtain copies of any such report or record: The personal representative of the decedent as defined in RCW 11.02.005, any

family member, the attending physician, the prosecuting attorney or law enforcement agencies having jurisdiction, public health officials, or to the department of labor and industries in cases in which it has an interest under RCW 68.50.103.

The coroner, the medical examiner, or the attending physician shall, upon request, meet with the family of the decedent to discuss the findings of the autopsy or post mortem. For the purposes of this section, the term "family" means the surviving spouse, domestic partner as defined under section 2 of this act, or any child, parent, grandparent, grandchild, brother, or sister of the decedent, or any person who was guardian of the decedent at the time of death.

Sec. 23. RCW 68.50.160 and 2005 c 365 s 141 are each amended to read as follows:

(1) A person has the right to control the disposition of his or her own remains without the predeath or postdeath consent of another person. A valid written document expressing the decedent's wishes regarding the place or method of disposition of his or her remains, signed by the decedent in the presence of a witness, is sufficient legal authorization for the procedures to be accomplished.

(2) Prearrangements that are prepaid, or filed with a licensed funeral establishment or cemetery authority, under RCW 18.39.280 through 18.39.345 and chapter 68.46 RCW are not subject to cancellation or substantial revision by survivors. Absent actual knowledge of contrary legal authorization under this section, a licensed funeral establishment or cemetery authority shall not be held criminally nor civilly liable for acting upon such prearrangements.

(3) If the decedent has not made a prearrangement as set forth in subsection (2) of this section or the costs of executing the decedent's wishes regarding the disposition of the decedent's remains exceeds a reasonable amount or directions have not been given by the decedent, the right to control the disposition of the remains of a deceased person vests in, and the duty of disposition and the liability for the reasonable cost of preparation, care, and disposition of such remains devolves upon the following in the order named:

(a) The surviving spouse or domestic partner as defined under section 2 of this act.

(b) The surviving adult children of the decedent.

(c) The surviving parents of the decedent.

(d) The surviving siblings of the decedent.

(e) A person acting as a representative of the decedent under the signed authorization of the decedent.

(4) If a cemetery authority as defined in RCW 68.04.190 or a funeral establishment licensed under chapter 18.39 RCW has made a good faith effort to locate the person cited in subsection (3)(a) through (e) of this section or the legal representative of the decedent's estate, the cemetery authority or funeral establishment shall have the right to rely on an authority to bury or cremate the human remains, executed by the most responsible party available, and the cemetery authority or funeral establishment may not be held criminally or civilly liable for burying or cremating the human remains. In the event any government agency provides the funds for the disposition of any human remains and the government agency elects to provide funds for cremation only, the cemetery authority or funeral establishment may not be held criminally or civilly liable for cremating the human remains.

(5) The liability for the reasonable cost of preparation, care, and disposition devolves jointly and severally upon all kin of the decedent in the same degree of kindred, in the order listed in subsection (3) of this section, and upon the estate of the decedent.

Sec. 24. RCW 68.50.200 and 2005 c 365 s 144 are each amended to read as follows:

Human remains may be removed from a plot in a cemetery with the consent of the cemetery authority and the written consent of one of the following in the order named:

(1) The surviving spouse or domestic partner as defined under section 2 of this act.

(2) The surviving children of the decedent.

(3) The surviving parents of the decedent.

(4) The surviving brothers or sisters of the decedent.

If the required consent cannot be obtained, permission by the superior court of the county where the cemetery is situated is sufficient: PROVIDED, That the permission shall not violate the terms of a written contract or the rules and regulations of the cemetery authority.

Sec. 25. RCW 68.50.550 and 1993 c 228 s 4 are each amended to read as follows:

(1) A member of the following classes of persons, in the order of priority listed, absent contrary instructions by the decedent, may make an anatomical gift of all or a part of the decedent's body for an authorized purpose, unless the decedent, at the time of death, had made an unrevoked refusal to make that anatomical gift:

(a) The appointed guardian of the person of the decedent at the time of death;

(b) The individual, if any, to whom the decedent had given a durable power of attorney that encompassed the authority to make health care decisions;

(c) The spouse or domestic partner as defined under section 2 of this act, of the decedent;

(d) A son or daughter of the decedent who is at least eighteen years of age;

(e) Either parent of the decedent;

(f) A brother or sister of the decedent who is at least eighteen years of age;

(g) A grandparent of the decedent.

(2) An anatomical gift may not be made by a person listed in subsection (1) of this section if:

(a) A person in a prior class is available at the time of death to make an anatomical gift;

(b) The person proposing to make an anatomical gift knows of a refusal or contrary indications by the decedent; or

(c) The person proposing to make an anatomical gift knows of an objection to making an anatomical gift by a member of the person's class or a prior class.

(3) An anatomical gift by a person authorized under subsection (1) of this section must be made by (a) a document of gift signed by the person or (b) the person's telegraphic, recorded telephonic, or other recorded message, or other form of communication from the person that is contemporaneously reduced to writing and signed by the recipient of the communication.

(4) An anatomical gift by a person authorized under subsection (1) of this section may be revoked by a member of the same or a prior class if, before procedures have begun for the removal of a part from the body of the decedent, the physician, surgeon, technician, or enucleator removing the part knows of the revocation.

(5) A failure to make an anatomical gift under subsection (1) of this section is not an objection to the making of an anatomical gift.

Sec. 26. RCW 11.04.015 and 1974 ex.s. c 117 s 6 are each amended to read as follows:

The net estate of a person dying intestate, or that portion thereof with respect to which the person shall have died intestate, shall descend subject to the provisions of RCW 11.04.250 and 11.02.070, and shall be distributed as follows:

(1) Share of surviving spouse or domestic partner as defined under section 2 of this act. The surviving spouse or domestic partner shall receive the following share:

(a) All of the decedent's share of the net community estate; and
(b) One-half of the net separate estate if the intestate is survived by issue; or

(c) Three-quarters of the net separate estate if there is no surviving issue, but the intestate is survived by one or more of his parents, or by one or more of the issue of one or more of his parents; or

(d) All of the net separate estate, if there is no surviving issue nor parent nor issue of parent.

(2) Shares of others than surviving spouse or domestic partner. The share of the net estate not distributable to the surviving spouse or domestic partner, or the entire net estate if there is no surviving spouse or domestic partner, shall descend and be distributed as follows:

(a) To the issue of the intestate; if they are all in the same degree of kinship to the intestate, they shall take equally, or if of unequal degree, then those of more remote degree shall take by representation.

(b) If the intestate not be survived by issue, then to the parent or parents who survive the intestate.

(c) If the intestate not be survived by issue or by either parent, then to those issue of the parent or parents who survive the intestate; if they are all in the same degree of kinship to the intestate, they shall take equally, or, if of unequal degree, then those of more remote degree shall take by representation.

(d) If the intestate not be survived by issue or by either parent, or by any issue of the parent or parents who survive the intestate, then to the grandparent or grandparents who survive the intestate; if both maternal and paternal grandparents survive the intestate, the maternal grandparent or grandparents shall take one-half and the paternal grandparent or grandparents shall take one-half.

(e) If the intestate not be survived by issue or by either parent, or by any issue of the parent or parents or by any grandparent or grandparents, then to those issue of any grandparent or grandparents who survive the intestate; taken as a group, the issue of the maternal grandparent or grandparents shall share equally with the issue of the paternal grandparent or grandparents, also taken as a group; within each such group, all members share equally if they are all in the same degree of kinship to the intestate, or, if some be of unequal degree, then those of more remote degree shall take by representation.

Sec. 27. RCW 11.28.120 and 1995 1st sp.s. c 18 s 61 are each amended to read as follows:

Administration of an estate if the decedent died intestate or if the personal representative or representatives named in the will declined or were unable to serve shall be granted to some one or more of the persons hereinafter mentioned, and they shall be respectively entitled in the following order:

(1) The surviving spouse or domestic partner as defined under section 2 of this act, or such person as he or she may request to have appointed.

(2) The next of kin in the following order: (a) Child or children; (b) father or mother; (c) brothers or sisters; (d) grandchildren; (e) nephews or nieces.

(3) The trustee named by the decedent in an inter vivos trust instrument, testamentary trustee named in the will, guardian of the

person or estate of the decedent, or attorney in fact appointed by the decedent, if any such a fiduciary controlled or potentially controlled substantially all of the decedent's probate and nonprobate assets.

(4) One or more of the beneficiaries or transferees of the decedent's probate or nonprobate assets.

(5)(a) The director of revenue, or the director's designee, for those estates having property subject to the provisions of chapter 11.08 RCW; however, the director may waive this right.

(b) The secretary of the department of social and health services for those estates owing debts for long-term care services as defined in RCW 74.39A.008; however the secretary may waive this right.

(6) One or more of the principal creditors.

(7) If the persons so entitled shall fail for more than forty days after the death of the decedent to present a petition for letters of administration, or if it appears to the satisfaction of the court that there is no next of kin, as above specified eligible to appointment, or they waive their right, and there are no principal creditor or creditors, or such creditor or creditors waive their right, then the court may appoint any suitable person to administer such estate.

Sec. 28. RCW 4.20.020 and 1985 c 139 s 1 are each amended to read as follows:

Every such action shall be for the benefit of the wife, husband, domestic partner as defined under section 2 of this act, child or children, including stepchildren, of the person whose death shall have been so caused. If there be no wife ~~((or))~~, husband, domestic partner, or such child or children, such action may be maintained for the benefit of the parents, sisters, or brothers, who may be dependent upon the deceased person for support, and who are resident within the United States at the time of his death.

In every such action the jury may give such damages as, under all circumstances of the case, may to them seem just.

Sec. 29. RCW 4.20.060 and 1985 c 139 s 2 are each amended to read as follows:

No action for a personal injury to any person occasioning death shall abate, nor shall such right of action determine, by reason of such death, if such person has a surviving spouse, domestic partner as defined under section 2 of this act, or child living, including stepchildren, or leaving no surviving spouse, domestic partner, or such children, if there is dependent upon the deceased for support and resident within the United States at the time of decedent's death, parents, sisters, or brothers; but such action may be prosecuted, or commenced and prosecuted, by the executor or administrator of the deceased, in favor of such surviving spouse or domestic partner, or in favor of the surviving spouse or domestic partner and such children, or if no surviving spouse or domestic partner, in favor of such child or children, or if no surviving spouse, domestic partner, or such child or children, then in favor of the decedent's parents, sisters, or brothers who may be dependent upon such person for support, and resident in the United States at the time of decedent's death.

Sec. 30. RCW 11.94.010 and 2005 c 97 s 12 are each amended to read as follows:

(1) Whenever a principal designates another as his or her attorney in fact or agent, by a power of attorney in writing, and the writing contains the words "This power of attorney shall not be affected by disability of the principal," or "This power of attorney shall become effective upon the disability of the principal," or similar words showing the intent of the principal that the authority conferred shall be exercisable notwithstanding the principal's disability, the authority of the attorney in fact or agent is exercisable on behalf of

the principal as provided notwithstanding later disability or incapacity of the principal at law or later uncertainty as to whether the principal is dead or alive. All acts done by the attorney in fact or agent pursuant to the power during any period of disability or incompetence or uncertainty as to whether the principal is dead or alive have the same effect and inure to the benefit of and bind the principal or the principal's guardian or heirs, devisees, and personal representative as if the principal were alive, competent, and not disabled. A principal may nominate, by a durable power of attorney, the guardian or limited guardian of his or her estate or person for consideration by the court if protective proceedings for the principal's person or estate are thereafter commenced. The court shall make its appointment in accordance with the principal's most recent nomination in a durable power of attorney except for good cause or disqualification. If a guardian thereafter is appointed for the principal, the attorney in fact or agent, during the continuance of the appointment, shall account to the guardian rather than the principal. The guardian has the same power the principal would have had if the principal were not disabled or incompetent, to revoke, suspend or terminate all or any part of the power of attorney or agency.

(2) Persons shall place reasonable reliance on any determination of disability or incompetence as provided in the instrument that specifies the time and the circumstances under which the power of attorney document becomes effective.

(3)(a) A principal may authorize his or her attorney-in-fact to provide informed consent for health care decisions on the principal's behalf. If a principal has appointed more than one agent with authority to make mental health treatment decisions in accordance with a directive under chapter 71.32 RCW, to the extent of any conflict, the most recently appointed agent shall be treated as the principal's agent for mental health treatment decisions unless provided otherwise in either appointment.

(b) Unless he or she is the spouse, domestic partner as defined under section 2 of this act, or adult child or brother or sister of the principal, none of the following persons may act as the attorney-in-fact for the principal: Any of the principal's physicians, the physicians' employees, or the owners, administrators, or employees of the health care facility or long-term care facility as defined in RCW 43.190.020 where the principal resides or receives care. Except when the principal has consented in a mental health advance directive executed under chapter 71.32 RCW to inpatient admission or electroconvulsive therapy, this authorization is subject to the same limitations as those that apply to a guardian under RCW 11.92.043(5) (a) through (c).

(4) A parent or guardian, by a properly executed power of attorney, may authorize an attorney in fact to make health care decisions on behalf of one or more of his or her children, or children for whom he or she is the legal guardian, who are under the age of majority as defined in RCW 26.28.015, to be effective if the child has no other parent or legal representative readily available and authorized to give such consent.

(5) A principal may further nominate a guardian or guardians of the person, or of the estate or both, of a minor child, whether born at the time of making the durable power of attorney or afterwards, to continue during the disability of the principal, during the minority of the child or for any less time by including such a provision in his or her power of attorney.

(6) The authority of any guardian of the person of any minor child shall supersede the authority of a designated attorney in fact to make health care decisions for the minor only after such designated guardian has been appointed by the court.

(7) In the event a conflict between the provisions of a will nominating a testamentary guardian under the authority of RCW 11.88.080 and the nomination of a guardian under the authority of this statute, the most recent designation shall control.

NEW SECTION. Sec. 31. A new section is added to chapter 70.58 RCW to read as follows:

Information recorded on death certificates shall include domestic partnership status and the surviving partner's information to the same extent such information is recorded for marital status and the surviving spouse's information.

NEW SECTION. Sec. 32. Sections 2 through 7 of this act constitute a new chapter in Title 26 RCW."

Correct the title.

Representative Miloscia spoke in favor of the adoption of the amendment.

Representative Lantz spoke against the adoption of the amendment.

The amendment was not adopted.

Representative Rodne moved the adoption of amendment (684):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The purpose of this act is to extend certain rights and obligations to two adults who provide mutual care and support for each other.

(2) The legislature finds that the people of Washington have chosen to limit marriage to the union of one man and one woman. As such, marriage is subject to restrictions, such as the prohibitions under RCW 26.04.020 between parties who are first cousins or nearer of kin to each other or of the same sex.

(3) The legislature recognizes that many choose to live in relationships that include financial interdependence and other mutual care and support. The state has an interest in promoting these relationships to encourage private dependencies rather than reliance on state benefits. The legislature recognizes that these mutually beneficial relationships would be assisted if certain rights, benefits, and obligations were made available to them. Examples include two individuals who are related to each other such as a widowed mother and her unmarried daughter, a grandmother caring for her grandson, or unrelated adults of the same gender.

(4) The legislature finds that certain rights, benefits, and obligations should be extended to two adults who seek to mutually care for each other.

(5) The legislature has declared that this state has a compelling state interest in reaffirming its historical commitment to the institution of marriage as a union between a man and a woman as husband and wife and in protecting that institution. The legislature has further declared its intent to establish public policy against same-sex marriage in statutory law that clearly and definitively declares same-sex marriages will not be recognized in Washington, even if they are made legal in other states. The legislature has enacted statutory law that prohibits marriages when the parties are persons

other than a male and a female and provides that marriages between two persons other than a male and a female that are recognized as valid in another jurisdiction are not valid in this state. Nothing in this act is intended to or shall be construed to promote or endorse same-sex marriage or to modify or supersede state law related to marriage.

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

(1) "Mutual beneficiaries" means two adults who meet the requirements of section 3 of this act.

(2) "Secretary" means the secretary of state's office.

NEW SECTION. Sec. 3. Two adults are considered mutual beneficiaries when the following requirements are met:

(1) Both are at least eighteen years of age;

(2) Neither is married to another person or in a mutual beneficiary contract with another person;

(3) Both are capable of consenting to the mutual beneficiary contract without fraud or duress;

(4) They execute a mutual beneficiary contract provided by the secretary; and

(5) They file a declaration of mutual beneficiaries with the secretary.

NEW SECTION. Sec. 4. Two adults who meet the criteria in section 3 (1) through (3) of this act may enter into a mutual beneficiary contract and file a "declaration of mutual beneficiaries" with the secretary. Upon receipt of a signed and notarized declaration and the filing fee, the secretary shall provide a copy of the declaration to both parties. The secretary shall maintain a record of each declaration filed with the secretary.

(1) An adult who is in a mutual beneficiary contract filed with the secretary may terminate the mutual beneficiary contract by filing a signed and notarized "termination of mutual beneficiary contract" with the secretary and paying a filing fee. The party seeking to terminate the mutual beneficiary contract must include in his or her filing an affidavit stating that the other party to the contract has received notice of the termination.

(2) Upon receipt of a signed and notarized termination of mutual beneficiary contract, the filing fee, and affidavit, the secretary shall provide a copy of the termination of mutual beneficiary contract to each of the parties to the contract. The secretary shall maintain a record of each termination of mutual beneficiary contract filed with the secretary.

(3) The secretary shall create forms entitled "declaration of mutual beneficiaries" and "termination of mutual beneficiary contract," and shall make those forms available to the public. The secretary shall set and collect fees for filing a declaration of mutual beneficiaries and filing a termination of mutual beneficiary contract. The secretary is authorized to adopt rules to administer this chapter.

NEW SECTION. Sec. 5. Mutual beneficiaries shall have the rights and benefits provided under this act. Nothing in this act may be construed to create any rights, benefits, protections, or responsibilities not specifically enumerated in this act.

NEW SECTION. Sec. 6. Persons in a domestic partnership, civil union, or other relationship recognized by another state or jurisdiction that confers some or all of the benefits, rights, or obligations of marriage to persons who are not eligible to marry in the state of Washington must otherwise qualify for a mutual

beneficiary contract under section 3 of this act in order to be considered mutual beneficiaries.

NEW SECTION. Sec. 7. (1) A patient's mutual beneficiary shall have the same rights as a family member with respect to visitation of the patient in a health care facility as defined in RCW 48.43.005.

(2) Informed consent for health care for a patient may be obtained from the mutual beneficiary of the patient to the same extent such consent may be obtained from a patient's spouse under RCW 7.70.065.

(3) Disclosure of health care information may be made to a patient's mutual beneficiary to the same extent such disclosure is authorized to a patient's family member under RCW 70.02.050.

(4) To the extent a mutual beneficiary is named a beneficiary to nonprobate assets, RCW 11.07.010 shall apply upon the termination of the mutual beneficiary contract.

(5) To the extent a mutual beneficiary is appointed as attorney in fact in a power of attorney, RCW 11.94.080 shall apply upon the termination of the mutual beneficiary contract.

(6) Mutual beneficiaries shall have the same rights and interests regarding vested rights of placement and titles and certificates of ownership to family plots as provided to spouses under RCW 68.32.020, 68.32.040, 68.32.060, 68.32.110, and 68.32.130.

(7) A mutual beneficiary shall have the right to control the disposition of the remains of his or her mutual beneficiary to the same extent provided to spouses under RCW 68.50.160.

(8) A mutual beneficiary shall have the right to make an anatomical gift of his or her mutual beneficiary to the same extent provided to a spouse under RCW 68.50.550.

(9) If a mutual beneficiary dies intestate, the decedent's estate shall be distributed to the surviving mutual beneficiary to same extent as a spouse under RCW 11.04.015.

(10) If a mutual beneficiary dies intestate or if the personal representative or representatives named in the will declines or is unable to serve, the surviving mutual beneficiary shall be entitled to serve as the personal representative to the same extent as a spouse under RCW 11.28.120.

NEW SECTION. Sec. 8. Sections 2 through 7 of this act constitute a new chapter in Title 26 RCW.

NEW SECTION. Sec. 9. This act may be known and cited as the mutual beneficiary contract act of 2007.

NEW SECTION. Sec. 10. The secretary of state shall submit this act to the people for their adoption and ratification, or rejection, at the next general election to be held in this state, in accordance with Article II, section 1 of the state Constitution and the laws adopted to facilitate its operation."

Correct the title.

Representatives Rodne and Ericksen spoke in favor of the adoption of the amendment.

Representative Lantz spoke against the adoption of the amendment.

The amendment was not adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives McDermott, Moeller, Flannigan, Kessler and Pedersen spoke in favor of passage of the bill.

Representatives Ahern, Rodne, McCune, Schindler, Anderson and Hinkle spoke against the passage of the bill.

The Speaker stated the question before the House to be the final passage of Substitute Senate Bill No. 5336.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5336 and the bill passed the House by the following vote: Yeas - 63, Nays - 35, Absent - 0, Excused - 0.

Voting yea: Representatives Appleton, Barlow, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Eickmeyer, Ericks, Flannigan, Fromhold, Goodman, Grant, Haigh, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Moeller, Morrell, Morris, O'Brien, Ormsby, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Schual-Berke, Seaquist, Sells, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Upthegrove, Van De Wege, Wallace, Walsh, Williams, Wood and Mr. Speaker - 63.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buri, Campbell, Chandler, Condotta, Crouse, Curtis, DeBolt, Dunn, Ericksen, Green, Hailey, Haler, Hinkle, Kretz, Kristiansen, McCune, McDonald, Miloscia, Newhouse, Orcutt, Pearson, Priest, Roach, Rodne, Ross, Schindler, Skinner, Strow, Sump and Warnick - 35.

SUBSTITUTE SENATE BILL NO. 5336, having received the necessary constitutional majority, was declared passed.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5774, By Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Kohl-Welles, Brandland and Shin; by request of Department of Social and Health Services)

Revising background check requirements for the department of social and health services and the department of early learning. (REVISED FOR ENGROSSED: Revising background check processes.)

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Appropriations was not adopted. (For Committee amendment, see Journal, 85th Day, April 2, 2007.)

With the consent of the House, amendments (539), (624) and (540) were withdrawn.

Representative Kagi moved the adoption of amendment (623):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 43.43 RCW to read as follows:

(1) In order to determine the character, competence, and suitability of any applicant or service provider to have unsupervised access, the secretary may require a fingerprint-based background check through the Washington state patrol and the federal bureau of investigation at anytime, but shall require a fingerprint-based background check when the applicant or service provider has resided in the state less than three consecutive years before application, and:

(a) Is an applicant or service provider providing services to children or people with developmental disabilities under RCW 74.15.030;

(b) Is an individual residing in an applicant or service provider's home, facility, entity, agency, or business or who is authorized by the department to provide services to children or people with developmental disabilities under RCW 74.15.030; or

(c) Is an applicant or service provider providing in-home services funded by:

(i) Medicaid personal care under RCW 74.09.520;

(ii) Community options program entry system waiver services under RCW 74.39A.030;

(iii) Chore services under RCW 74.39A.110; or

(iv) Other home and community long-term care programs, established pursuant to chapters 74.39 and 74.39A RCW, administered by the department.

(2) The secretary shall require a fingerprint-based background check through the Washington state patrol identification and criminal history section and the federal bureau of investigation when the department seeks to approve an applicant or service provider for a foster or adoptive placement of children in accordance with federal and state law.

(3) Any secure facility operated by the department under chapter 71.09 RCW shall require applicants and service providers to undergo a fingerprint-based background check through the Washington state patrol identification and criminal history section and the federal bureau of investigation.

(4) Service providers and service provider applicants who are required to complete a fingerprint-based background check may be hired for a one hundred twenty-day provisional period as allowed under law or program rules when:

(a) A fingerprint-based background check is pending; and

(b) The applicant or service provider is not disqualified based on the immediate result of the background check.

(5) Fees charged by the Washington state patrol and the federal bureau of investigation for fingerprint-based background checks shall be paid by the department for applicants or service providers providing:

(a) Services to people with a developmental disability under RCW 74.15.030;

(b) In-home services funded by medicaid personal care under RCW 74.09.520;

(c) Community options program entry system waiver services under RCW 74.39A.030;

(d) Chore services under RCW 74.39A.110;

(e) Services under other home and community long-term care programs, established pursuant to chapters 74.39 and 74.39A RCW, administered by the department;

(f) Services in, or to residents of, a secure facility under RCW 71.09.115; and

(g) Foster care as required under RCW 74.15.030.

(6) Service providers licensed under RCW 74.15.030 must pay fees charged by the Washington state patrol and the federal bureau of investigation for conducting fingerprint-based background checks.

(7) Children's administration service providers licensed under RCW 74.15.030 may not pass on the cost of the background check fees to their applicants unless the individual is determined to be disqualified due to the background information.

(8) The department shall develop rules identifying the financial responsibility of service providers, applicants, and the department for paying the fees charged by law enforcement to roll, print, or scan fingerprints-based for the purpose of a Washington state patrol or federal bureau of investigation fingerprint-based background check.

(9) For purposes of this section, unless the context plainly indicates otherwise:

(a) "Applicant" means a current or prospective department or service provider employee, volunteer, student, intern, researcher, contractor, or any other individual who will or may have unsupervised access because of the nature of the work or services he or she provides. "Applicant" includes but is not limited to any individual who will or may have unsupervised access and is:

(i) Applying for a license or certification from the department;

(ii) Seeking a contract with the department or a service provider;

(iii) Applying for employment, promotion, reallocation, or transfer;

(iv) An individual that a department client or guardian of a department client chooses to hire or engage to provide services to himself or herself or another vulnerable adult, juvenile, or child and who might be eligible to receive payment from the department for services rendered; or

(v) A department applicant who will or may work in a department-covered position.

(b) "Authorized" means the department grants an applicant, home, or facility permission to:

(i) Conduct licensing, certification, or contracting activities;

(ii) Have unsupervised access to vulnerable adults, juveniles, and children;

(iii) Receive payments from a department program; or

(iv) Work or serve in a department-covered position.

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

(d) "Secretary" means the secretary of the department of social and health services.

(e) "Secure facility" has the meaning provided in RCW 71.09.020.

(f) "Service provider" means entities, facilities, agencies, businesses, or individuals who are licensed, certified, authorized, or regulated by, receive payment from, or have contracts or agreements with the department to provide services to vulnerable adults, juveniles, or children. "Service provider" includes individuals whom a department client or guardian of a department client may choose to hire or engage to provide services to himself or herself or another vulnerable adult, juvenile, or child and who might be eligible to receive payment from the department for services rendered. "Service

provider" does not include those certified under chapter 70.96A RCW.

Sec. 2. RCW 26.33.190 and 1991 c 136 s 3 are each amended to read as follows:

(1) Any person may at any time request an agency, the department, an individual approved by the court, or a qualified salaried court employee to prepare a preplacement report. A certificate signed under penalty of perjury by the person preparing the report specifying his or her qualifications as required in this chapter shall be attached to or filed with each preplacement report and shall include a statement of training or experience that qualifies the person preparing the report to discuss relevant adoption issues. A person may have more than one preplacement report prepared. All preplacement reports shall be filed with the court in which the petition for adoption is filed.

(2) The preplacement report shall be a written document setting forth all relevant information relating to the fitness of the person requesting the report as an adoptive parent. The report shall be based on a study which shall include an investigation of the home environment, family life, health, facilities, and resources of the person requesting the report. The report shall include a list of the sources of information on which the report is based. The report shall include a recommendation as to the fitness of the person requesting the report to be an adoptive parent. The report shall also verify that the following issues were discussed with the prospective adoptive parents:

(a) The concept of adoption as a lifelong developmental process and commitment;

(b) The potential for the child to have feelings of identity confusion and loss regarding separation from the birth parents;

(c) Disclosure of the fact of adoption to the child;

(d) The child's possible questions about birth parents and relatives; and

(e) The relevance of the child's racial, ethnic, and cultural heritage.

(3) All preplacement reports shall include ((an investigation)) a background check of ((the)) any conviction records, pending charges, or disciplinary board final decisions of prospective adoptive parents. The ((investigation)) background check shall include an examination of state and national criminal identification data provided by the Washington state patrol criminal identification system ((as described in chapter 43.43 RCW)) including, but not limited to, a fingerprint-based background check of national crime information databases for any person being investigated. It shall also include a review of any child abuse and neglect history of any adult living in the prospective adoptive parents' home. The background check of the child abuse and neglect history shall include a review of the child abuse and neglect registries of all states in which the prospective adoptive parents or any other adult living in the home have lived during the five years preceding the date of the preplacement report.

(4) An agency, the department, or a court approved individual may charge a reasonable fee based on the time spent in conducting the study and preparing the preplacement report. The court may set a reasonable fee for conducting the study and preparing the report when a court employee has prepared the report. An agency, the department, a court approved individual, or the court may reduce or waive the fee if the financial condition of the person requesting the report so warrants. An agency's, the department's, or court approved individual's, fee is subject to review by the court upon request of the person requesting the report.

(5) The person requesting the report shall designate to the agency, the department, the court approved individual, or the court in writing the county in which the preplacement report is to be filed. If the person requesting the report has not filed a petition for adoption, the report shall be indexed in the name of the person requesting the report and a cause number shall be assigned. A fee shall not be charged for filing the report. The applicable filing fee may be charged at the time a petition governed by this chapter is filed. Any subsequent preplacement reports shall be filed together with the original report.

(6) A copy of the completed preplacement report shall be delivered to the person requesting the report.

(7) A person may request that a report not be completed. A reasonable fee may be charged for the value of work done.

Sec. 3. RCW 26.44.030 and 2005 c 417 s 1 are each amended to read as follows:

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

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

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

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

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

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

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

to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

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

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

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

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

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

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

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

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under

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

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

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

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

(11) Upon receiving a report of alleged child abuse and neglect, the department or investigating law enforcement agency shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

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

(13) The department shall maintain investigation records and conduct timely and periodic reviews of all cases constituting abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

~~((13))~~ (14) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

~~((14))~~ (15) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person

making the report and any collateral sources to determine if any malice is involved in the reporting.

~~((15))~~ (16) The department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which: (a) The department believes there is a serious threat of substantial harm to the child; (b) the report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or (c) the department has, after investigation, a report of abuse or neglect that has been founded with regard to a member of the household within three years of the referral.

Sec. 4. RCW 43.43.842 and 1998 c 10 s 4 are each amended to read as follows:

(1)(a) The secretary of social and health services and the secretary of health shall adopt additional requirements for the licensure or relicensure of agencies, facilities, and licensed individuals who provide care and treatment to vulnerable adults, including nursing pools registered under chapter 18.52C RCW. These additional requirements shall ensure that any person associated with a licensed agency or facility having unsupervised access with a vulnerable adult shall not be the respondent in an active protective order under RCW 74.34.130, nor have been: (i) Convicted of a crime against persons as defined in RCW 43.43.830, except as provided in this section; (ii) convicted of crimes relating to financial exploitation as defined in RCW 43.43.830, except as provided in this section; or (iii) found in any disciplinary board final decision to have abused a vulnerable adult under RCW 43.43.830(~~;~~ or (iv) the subject in a protective proceeding under chapter 74.34 RCW).

(b) A person associated with a licensed agency or facility who has unsupervised access with a vulnerable adult shall make the disclosures specified in RCW 43.43.834(2). The person shall make the disclosures in writing, sign, and swear to the contents under penalty of perjury. The person shall, in the disclosures, specify all crimes against children or other persons, all crimes relating to financial exploitation, and all crimes relating to drugs as defined in RCW 43.43.830, committed by the person.

(2) The rules adopted under this section shall permit the licensee to consider the criminal history of an applicant for employment in a licensed facility when the applicant has one or more convictions for a past offense and:

(a) The offense was simple assault, assault in the fourth degree, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(b) The offense was prostitution, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(c) The offense was theft in the third degree, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(d) The offense was theft in the second degree, or the same offense as it may be renamed, and five or more years have passed between the most recent conviction and the date of application for employment;

(e) The offense was forgery, or the same offense as it may be renamed, and five or more years have passed between the most recent conviction and the date of application for employment.

The offenses set forth in (a) through (e) of this subsection do not automatically disqualify an applicant from employment by a licensee. Nothing in this section may be construed to require the employment of any person against a licensee's judgment.

(3) In consultation with law enforcement personnel, the secretary of social and health services and the secretary of health shall investigate, or cause to be investigated, the conviction record and the protection proceeding record information under this chapter of the staff of each agency or facility under their respective jurisdictions seeking licensure or relicensure. An individual responding to a criminal background inquiry request from his or her employer or potential employer shall disclose the information about his or her criminal history under penalty of perjury. The secretaries shall use the information solely for the purpose of determining eligibility for licensure or relicensure. Criminal justice agencies shall provide the secretaries such information as they may have and that the secretaries may require for such purpose.

Sec. 5. RCW 74.15.030 and 2006 c 265 s 402 and 2006 c 54 s 8 are each reenacted and amended to read as follows:

The secretary shall have the power and it shall be the secretary's duty:

(1) In consultation with the children's services advisory committee, and with the advice and assistance of persons representative of the various type agencies to be licensed, to designate categories of facilities for which separate or different requirements shall be developed as may be appropriate whether because of variations in the ages, sex and other characteristics of persons served, variations in the purposes and services offered or size or structure of the agencies to be licensed hereunder, or because of any other factor relevant thereto;

(2) In consultation with the children's services advisory committee, and with the advice and assistance of persons representative of the various type agencies to be licensed, to adopt and publish minimum requirements for licensing applicable to each of the various categories of agencies to be licensed.

The minimum requirements shall be limited to:

(a) The size and suitability of a facility and the plan of operation for carrying out the purpose for which an applicant seeks a license;

(b) ~~(The character, suitability and competence of an agency and other persons associated with an agency directly responsible for the care and treatment of children, expectant mothers or developmentally disabled persons;~~

~~In consultation with law enforcement personnel, the secretary shall investigate the conviction record or pending charges and dependency record information under chapter 43.43 RCW of each agency and its staff seeking licensure or relicensure;~~

~~No unfounded allegation of child abuse or neglect as defined in RCW 26.44.020 may be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under this chapter. In order to determine the suitability of applicants for an agency license, licensees, their employees, and other persons who have unsupervised access to children in care, and who have not resided in the state of Washington during the three-year period before being authorized to care for children shall be fingerprinted. The fingerprints shall be forwarded to the Washington state patrol and federal bureau of investigation for a criminal history records check. The fingerprint criminal history records checks will be at the expense of the licensee except that in the case of a foster family home, if this~~

~~expense would work a hardship on the licensee, the department shall pay the expense.~~

~~The licensee may not pass this cost on to the employee or prospective employee, unless the employee is determined to be unsuitable due to his or her criminal history record. The secretary shall use the information solely for the purpose of determining eligibility for a license and for determining the character, suitability, and competence of those persons or agencies, excluding parents, not required to be licensed who are authorized to care for children, expectant mothers, and developmentally disabled persons. Criminal justice agencies shall provide the secretary such information as they may have and that the secretary may require for such purpose;~~

~~(e)) Obtaining background information and any out-of-state equivalent, to determine whether the applicant or service provider is disqualified and to determine the character, competence, and suitability of an agency, the agency's employees, volunteers, and other persons associated with an agency;~~

~~(c) Conducting background checks for those who will or may have unsupervised access to children, expectant mothers, or individuals with a developmental disability;~~

~~(d) Obtaining child protective services information or records maintained in the department case management information system. No unfounded allegation of child abuse or neglect as defined in RCW 26.44.020 may be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under this chapter;~~

~~(e) Submitting a fingerprint-based background check through the Washington state patrol under chapter 10.97 RCW and through the federal bureau of investigation for:~~

~~(i) Agencies and their staff, volunteers, students, and interns when the agency is seeking license or relicense;~~

~~(ii) Foster care and adoption placements; and~~

~~(iii) Any adult living in a home where a child may be placed;~~

~~(f) If any adult living in the home has not resided in the state of Washington for the preceding five years, the department shall review any child abuse and neglect registries maintained by any state where the adult has resided over the preceding five years;~~

~~(g) The cost of fingerprint background check fees will be paid as required in section 1 of this act;~~

~~(h) National and state background information must be used solely for the purpose of determining eligibility for a license and for determining the character, suitability, and competence of those persons or agencies, excluding parents, not required to be licensed who are authorized to care for children or expectant mothers;~~

~~(i) The number of qualified persons required to render the type of care and treatment for which an agency seeks a license;~~

~~((f)) (j) The safety, cleanliness, and general adequacy of the premises to provide for the comfort, care and well-being of children, expectant mothers or developmentally disabled persons;~~

~~((e)) (k) The provision of necessary care, including food, clothing, supervision and discipline; physical, mental and social well-being; and educational, recreational and spiritual opportunities for those served;~~

~~((f)) (l) The financial ability of an agency to comply with minimum requirements established pursuant to chapter 74.15 RCW and RCW 74.13.031; and~~

~~((g)) (m) The maintenance of records pertaining to the admission, progress, health and discharge of persons served;~~

(3) To investigate any person, including relatives by blood or marriage except for parents, for character, suitability, and competence in the care and treatment of children, expectant mothers, and developmentally disabled persons prior to authorizing that person to care for children, expectant mothers, and developmentally disabled

persons. However, if a child is placed with a relative under RCW 13.34.065 or 13.34.130, and if such relative appears otherwise suitable and competent to provide care and treatment the criminal history background check required by this section need not be completed before placement, but shall be completed as soon as possible after placement;

(4) On reports of alleged child abuse and neglect, to investigate agencies in accordance with chapter 26.44 RCW, including child day-care centers and family day-care homes, to determine whether the alleged abuse or neglect has occurred, and whether child protective services or referral to a law enforcement agency is appropriate;

(5) To issue, revoke, or deny licenses to agencies pursuant to chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the category of care which an agency is authorized to render and the ages, sex and number of persons to be served;

(6) To prescribe the procedures and the form and contents of reports necessary for the administration of chapter 74.15 RCW and RCW 74.13.031 and to require regular reports from each licensee;

(7) To inspect agencies periodically to determine whether or not there is compliance with chapter 74.15 RCW and RCW 74.13.031 and the requirements adopted hereunder;

(8) To review requirements adopted hereunder at least every two years and to adopt appropriate changes after consultation with affected groups for child day-care requirements and with the children's services advisory committee for requirements for other agencies;

(9) To engage in negotiated rule making pursuant to RCW 34.05.310(2)(a) with the exclusive representative of the family child care licensees selected in accordance with RCW 74.15.035 and with other affected interests before adopting requirements that affect family child care licensees; and

(10) To consult with public and private agencies in order to help them improve their methods and facilities for the care of children, expectant mothers and developmentally disabled persons.

NEW SECTION. Sec. 6. Federal and state law require the balancing of the privacy interests of individuals with the government's interest in the protection of children and vulnerable adults. The legislature finds that the balancing of these interests may be skewed in favor of the privacy rights of individuals. Therefore, a work group is created to research the current laws regarding background checks for prospective employees of public and private entities which work with vulnerable adults or children. The legislature finds that a comprehensive background check which includes both civil and criminal information is a valuable tool in safeguarding vulnerable adults and children from preventable risk.

NEW SECTION. Sec. 7. (1) The department of social and health services shall convene a work group to: (a) Review the current federal and state laws and administrative rules and practices with respect to sharing confidential information; (b) analyze how state agencies use background check information to make employment decisions, including how such information may disqualify an individual for employment; and (c) examine the need for and feasibility of verifying citizenship or immigration status of persons for whom background checks are required.

(2)(a) The work group shall include but not be limited to the following members, chosen by the chief executive officer of each entity:

- (i) A representative of the department of social and health services;
- (ii) A representative of the department of early learning;

(iii) A representative of the department of health;

(iv) A representative of the office of the superintendent of public instruction;

(v) A representative of the department of licensing;

(vi) A representative of the Washington state patrol;

(vii) A representative from the Washington state bar association;

(viii) A representative of the Washington association of sheriffs and police chiefs;

(ix) A representative of the Washington association of criminal defense attorneys;

(x) A representative from the administrative office of the courts; and

(xi) A representative from the department of information services.

(b) The work group shall also include as nonvoting ex officio members:

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

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

(c) Additional voting members may be invited to participate as determined by the work group.

(3) Appointments to the work group shall be completed within thirty days of the effective date of this section.

(4) The work group may form an executive committee, create subcommittees, designate alternative representatives, and define other procedures, as needed, for operation of the work group.

(5) Legislative members of the work group shall be reimbursed for travel expenses under RCW 44.04.120. Nonlegislative members, except those representing an employee or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(6) The secretary of the department of social and health services or the secretary's designee shall serve as chair of the work group.

(7) The department of social and health services shall provide staff support to the work group.

(8) The work group shall:

(a) Provide an interim report to the legislature and the governor by December 1, 2007; and

(b) Make recommendations to the legislature and the governor by July 1, 2008, regarding improving current processes for sharing and use of background information, including but not limited to the feasibility of creating a clearinghouse of information.

(i) The clearinghouse shall simplify administrative handling of background check requests and reduce the total costs and number of full-time employees involved in doing the work, develop expertise in searching multiple databases, and include a process for reducing the total amount of time it takes to process background checks, including using workflow management software to improve transparency of process impediments.

(ii) The workgroup should consider where to locate the administrative work, possibly considering the use of the department of licensing's facilities for collecting fingerprints and other identifying information about applicants.

(9) This section expires November 30, 2008.

Sec. 8. RCW 41.06.475 and 2002 c 354 s 222 are each amended to read as follows:

The director shall adopt rules, in cooperation with the ~~(secretary of social and health services, for the background investigation of persons being considered for state employment in positions directly~~

responsible for the supervision, care, or treatment of children or developmentally disabled persons)) director of the department of early learning, for the background investigation of current employees and of persons being actively considered for positions with the department who will or may have unsupervised access to children. The director shall also adopt rules, in cooperation with the director of the department of early learning, for background investigation of positions otherwise required by federal law to meet employment standards. "Considered for positions" includes decisions about (1) initial hiring, layoffs, reallocations, transfers, promotions, or demotions, or (2) other decisions that result in an individual being in a position that will or may have unsupervised access to children as an employee, an intern, or a volunteer.

Sec. 9. RCW 43.43.830 and 2005 c 421 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.43.830 through 43.43.845.

(1) "Applicant" means:

(a) Any prospective employee who will or may have unsupervised access to children under sixteen years of age or developmentally disabled persons or vulnerable adults during the course of his or her employment or involvement with the business or organization;

(b) Any prospective volunteer who will have regularly scheduled unsupervised access to children under sixteen years of age, developmentally disabled persons, or vulnerable adults during the course of his or her employment or involvement with the business or organization under circumstances where such access will or may involve groups of (i) five or fewer children under twelve years of age, (ii) three or fewer children between twelve and sixteen years of age, (iii) developmentally disabled persons, or (iv) vulnerable adults;

(c) Any prospective adoptive parent, as defined in RCW 26.33.020; or

(d) Any prospective custodian in a nonparental custody proceeding under chapter 26.10 RCW.

(2) "Business or organization" means a person, business, or organization licensed in this state, any agency of the state, or other governmental entity, that educates, trains, treats, supervises, houses, or provides recreation to developmentally disabled persons, vulnerable adults, or children under sixteen years of age, or that provides child day care, early learning, or early learning childhood education services, including but not limited to public housing authorities, school districts, and educational service districts.

(3) "Civil adjudication proceeding" is a judicial or administrative adjudicative proceeding that results in a finding of, or upholds an agency finding of, domestic violence, abuse, sexual abuse, neglect, abandonment, violation of a professional licensing standard regarding a child or vulnerable adult, or exploitation or financial exploitation of a child or vulnerable adult under any provision of law, including but not limited to chapter 13.34, 26.44, or 74.34 RCW, or rules adopted under chapters 18.51 and 74.42 RCW. "Civil adjudication proceeding" also includes judicial or administrative ((orders)) findings that become final due to the failure of the alleged perpetrator to timely exercise a legal right ((afforded to him or her)) to administratively challenge such findings ((made by the department of social and health services or the department of health under chapter 13.34, 26.44, or 74.34 RCW, or rules adopted under chapters 18.51 and 74.42 RCW)).

(4) "Conviction record" means "conviction record" information as defined in RCW 10.97.030 and 10.97.050 relating to a crime committed by either an adult or a juvenile. It does not include a

conviction for an offense that has been the subject of an expungement, pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, or a conviction that has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. It does include convictions for offenses for which the defendant received a deferred or suspended sentence, unless the record has been expunged according to law.

(5) "Crime against children or other persons" means a conviction of any of the following offenses: Aggravated murder; first or second degree murder; first or second degree kidnaping; first, second, or third degree assault; first, second, or third degree assault of a child; first, second, or third degree rape; first, second, or third degree rape of a child; first or second degree robbery; first degree arson; first degree burglary; first or second degree manslaughter; first or second degree extortion; indecent liberties; incest; vehicular homicide; first degree promoting prostitution; communication with a minor; unlawful imprisonment; simple assault; sexual exploitation of minors; first or second degree criminal mistreatment; endangerment with a controlled substance; child abuse or neglect as defined in RCW 26.44.020; first or second degree custodial interference; first or second degree custodial sexual misconduct; malicious harassment; first, second, or third degree child molestation; first or second degree sexual misconduct with a minor; patronizing a juvenile prostitute; child abandonment; promoting pornography; selling or distributing erotic material to a minor; custodial assault; violation of child abuse restraining order; child buying or selling; prostitution; felony indecent exposure; criminal abandonment; or any of these crimes as they may be renamed in the future.

(6) "Crimes relating to drugs" means a conviction of a crime to manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance.

(7) "Crimes relating to financial exploitation" means a conviction for first, second, or third degree extortion; first, second, or third degree theft; first or second degree robbery; forgery; or any of these crimes as they may be renamed in the future.

(8) "Unsupervised" means not in the presence of:

(a) Another employee or volunteer from the same business or organization as the applicant; or

(b) Any relative or guardian of any of the children or developmentally disabled persons or vulnerable adults to which the applicant has access during the course of his or her employment or involvement with the business or organization.

(9) "Vulnerable adult" means "vulnerable adult" as defined in chapter 74.34 RCW, except that for the purposes of requesting and receiving background checks pursuant to RCW 43.43.832, it shall also include adults of any age who lack the functional, mental, or physical ability to care for themselves.

(10) "Financial exploitation" means "financial exploitation" as defined in RCW 74.34.020.

(11) "Agency" means any person, firm, partnership, association, corporation, or facility which receives, provides services to, houses or otherwise cares for vulnerable adults, juveniles, or children, or which provides child day care, early learning, or early childhood education services.

Sec. 10. RCW 43.43.832 and 2006 c 263 s 826 are each amended to read as follows:

(1) The legislature finds that businesses and organizations providing services to children, developmentally disabled persons, and vulnerable adults need adequate information to determine which employees or licensees to hire or engage. The legislature further

finds that many developmentally disabled individuals and vulnerable adults desire to hire their own employees directly and also need adequate information to determine which employees or licensees to hire or engage. Therefore, the Washington state patrol identification and criminal history section shall disclose, upon the request of a business or organization as defined in RCW 43.43.830, a developmentally disabled person, or a vulnerable adult as defined in RCW 43.43.830 or his or her guardian, an applicant's conviction record (~~(for convictions)~~) as defined in chapter 10.97 RCW.

(2) The legislature also finds that the Washington professional educator standards board may request of the Washington state patrol criminal identification system information regarding a certificate applicant's conviction record (~~(for convictions)~~) under subsection (1) of this section.

(3) The legislature also finds that law enforcement agencies, the office of the attorney general, prosecuting authorities, and the department of social and health services may request this same information to aid in the investigation and prosecution of child, developmentally disabled person, and vulnerable adult abuse cases and to protect children and adults from further incidents of abuse.

(4) The legislature further finds that the secretary of the department of social and health services must establish rules and set standards to require specific action when considering the information listed in subsection (1) of this section, and when considering additional information including but not limited to civil adjudication proceedings as defined in RCW 43.43.830 and any out-of-state equivalent, in the following circumstances:

(a) When considering persons for state employment in positions directly responsible for the supervision, care, or treatment of children, vulnerable adults, or individuals with mental illness or developmental disabilities;

(b) When considering persons for state positions involving unsupervised access to vulnerable adults to conduct comprehensive assessments, financial eligibility determinations, licensing and certification activities, investigations, surveys, or case management; or for state positions otherwise required by federal law to meet employment standards;

(c) When licensing agencies or facilities with individuals in positions directly responsible for the care, supervision, or treatment of children, developmentally disabled persons, or vulnerable adults, including but not limited to agencies or facilities licensed under chapter 74.15 or 18.51 RCW;

(d) When contracting with individuals or businesses or organizations for the care, supervision, case management, or treatment of children, developmentally disabled persons, or vulnerable adults, including but not limited to services contracted for under chapter 18.20, 18.48, 70.127, 70.128, 72.36, or 74.39A RCW or Title 71A RCW;

(e) When individual providers are paid by the state or providers are paid by home care agencies to provide in-home services involving unsupervised access to persons with physical, mental, or developmental disabilities or mental illness, or to vulnerable adults as defined in chapter 74.34 RCW, including but not limited to services provided under chapter 74.39 or 74.39A RCW.

(5) The director of the department of early learning shall investigate the conviction records, pending charges, and other information including civil adjudication proceeding records of current employees and of any person actively being considered for any position with the department who will or may have unsupervised access to children, or for state positions otherwise required by federal law to meet employment standards. "Considered for any position" includes decisions about (a) initial hiring, layoffs, reallocations,

transfers, promotions, or demotions, or (b) other decisions that result in an individual being in a position that will or may have unsupervised access to children as an employee, an intern, or a volunteer.

(6) The director of the department of early learning shall adopt rules and investigate conviction records, pending charges, and other information including civil adjudication proceeding records, in the following circumstances:

(a) When licensing or certifying agencies with individuals in positions that will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood education services, including but not limited to licensees, agency staff, interns, volunteers, contracted providers, and persons living on the premises who are sixteen years of age or older;

(b) When authorizing individuals who will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood learning education services in licensed or certified agencies, including but not limited to licensees, agency staff, interns, volunteers, contracted providers, and persons living on the premises who are sixteen years of age or older;

(c) When contracting with any business or organization for activities that will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood learning education services;

(d) When establishing the eligibility criteria for individual providers to receive state paid subsidies to provide child day care or early learning services that will or may involve unsupervised access to children.

(7) Whenever a state conviction record check is required by state law, persons may be employed or engaged as volunteers or independent contractors on a conditional basis pending completion of the state background investigation. Whenever a national criminal record check through the federal bureau of investigation is required by state law, a person may be employed or engaged as a volunteer or independent contractor on a conditional basis pending completion of the national check. The Washington personnel resources board shall adopt rules to accomplish the purposes of this subsection as it applies to state employees.

~~((6))~~ (8)(a) For purposes of facilitating timely access to criminal background information and to reasonably minimize the number of requests made under this section, recognizing that certain health care providers change employment frequently, health care facilities may, upon request from another health care facility, share copies of completed criminal background inquiry information.

(b) Completed criminal background inquiry information may be shared by a willing health care facility only if the following conditions are satisfied: The licensed health care facility sharing the criminal background inquiry information is reasonably known to be the person's most recent employer, no more than twelve months has elapsed from the date the person was last employed at a licensed health care facility to the date of their current employment application, and the criminal background information is no more than two years old.

(c) If criminal background inquiry information is shared, the health care facility employing the subject of the inquiry must require the applicant to sign a disclosure statement indicating that there has been no conviction or finding as described in RCW 43.43.842 since the completion date of the most recent criminal background inquiry.

(d) Any health care facility that knows or has reason to believe that an applicant has or may have a disqualifying conviction or finding as described in RCW 43.43.842, subsequent to the completion date of their most recent criminal background inquiry,

shall be prohibited from relying on the applicant's previous employer's criminal background inquiry information. A new criminal background inquiry shall be requested pursuant to RCW 43.43.830 through 43.43.842.

(e) Health care facilities that share criminal background inquiry information shall be immune from any claim of defamation, invasion of privacy, negligence, or any other claim in connection with any dissemination of this information in accordance with this subsection.

(f) Health care facilities shall transmit and receive the criminal background inquiry information in a manner that reasonably protects the subject's rights to privacy and confidentiality.

(g) For the purposes of this subsection, "health care facility" means a nursing home licensed under chapter 18.51 RCW, a boarding home licensed under chapter 18.20 RCW, or an adult family home licensed under chapter 70.128 RCW.

~~((7) If a federal bureau of investigation check is required in addition to the state background check by the department of social and health services, an applicant who is not disqualified based on the results of the state background check shall be eligible for a one hundred twenty day provisional approval to hire, pending the outcome of the federal bureau of investigation check. The department may extend the provisional approval until receipt of the federal bureau of investigation check. If the federal bureau of investigation check disqualifies an applicant, the department shall notify the requestor that the provisional approval to hire is withdrawn and the applicant may be terminated.))~~

NEW SECTION. Sec. 11. If specific funding for the purposes of sections 6 and 7 of this act, referencing sections 6 and 7 of this act by bill or chapter number and section number, is not provided by June 30, 2007, in the omnibus appropriations act, sections 6 and 7 of this act are null and void."

Correct the title.

Representative Kagi spoke in favor of the adoption of the amendment.

The amendment was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House was placed on final passage.

Representatives Kagi and Haler spoke in favor of passage of the bill.

The Speaker stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5774, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5774, as amended by the House and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Buri, Campbell,

Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hailey, Haler, Hankins, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 98.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5774, as amended by the House, having received the necessary constitutional majority, was declared passed.

SIGNED BY THE SPEAKER

The Speaker signed:

HOUSE BILL NO. 1145,
HOUSE BILL NO. 1231,
HOUSE BILL NO. 1235,
HOUSE BILL NO. 1236,
SUBSTITUTE HOUSE BILL NO. 1279,
SECOND SUBSTITUTE HOUSE BILL NO. 1280,
HOUSE BILL NO. 1311,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1497,
HOUSE BILL NO. 1549,
HOUSE BILL NO. 1556,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1649,
HOUSE BILL NO. 1676,
SUBSTITUTE HOUSE BILL NO. 2010,
ENGROSSED HOUSE BILL NO. 2105,
SUBSTITUTE HOUSE BILL NO. 2158,
SUBSTITUTE HOUSE BILL NO. 2361,
ENGROSSED SUBSTITUTE HOUSE JOINT MEMORIAL NO. 4011,
SUBSTITUTE SENATE BILL NO. 5039,
SENATE BILL NO. 5042,
SUBSTITUTE SENATE BILL NO. 5052,
SUBSTITUTE SENATE BILL NO. 5078,
SENATE BILL NO. 5086,
SUBSTITUTE SENATE BILL NO. 5087,
SUBSTITUTE SENATE BILL NO. 5118,
SECOND SUBSTITUTE SENATE BILL NO. 5122,
SENATE BILL NO. 5134,
SENATE BILL NO. 5175,
SUBSTITUTE SENATE BILL NO. 5190,
SENATE BILL NO. 5199,
ENGROSSED SENATE BILL NO. 5204,
SUBSTITUTE SENATE BILL NO. 5228,
SUBSTITUTE SENATE BILL NO. 5242,
SENATE BILL NO. 5247,
SUBSTITUTE SENATE BILL NO. 5250,
ENGROSSED SENATE BILL NO. 5251,
SENATE BILL NO. 5273,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5292,
SENATE BILL NO. 5313,
SENATE BILL NO. 5389,
SUBSTITUTE SENATE BILL NO. 5391,
SENATE BILL NO. 5398,

ENGROSSED SUBSTITUTE SENATE BILL NO. 5403,
 SENATE BILL NO. 5421,
 SUBSTITUTE SENATE BILL NO. 5443,
 SUBSTITUTE SENATE BILL NO. 5461,
 SUBSTITUTE SENATE BILL NO. 5463,
 SENATE BILL NO. 5468,
 SUBSTITUTE SENATE BILL NO. 5511,
 SUBSTITUTE SENATE BILL NO. 5554,
 SENATE BILL NO. 5607,
 SENATE BILL NO. 5640,
 SENATE BILL NO. 5711,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5717,
 SENATE BILL NO. 5732,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5827,
 SUBSTITUTE SENATE BILL NO. 5839,
 SUBSTITUTE SENATE BILL NO. 5895,
 SUBSTITUTE SENATE BILL NO. 5910,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5920,
 ENGROSSED SENATE BILL NO. 6018,
 SENATE BILL NO. 6059,
 SENATE BILL NO. 6075,

The Speaker called upon Representative Lovick to
 preside.

SECOND READING

**SUBSTITUTE SENATE BILL NO. 5340, By Senate
 Committee on Judiciary (originally sponsored by Senators
 Kline, Swecker, Fairley, Kohl-Welles, Shin, Pridemore,
 McAuliffe, Regala, Murray, Spanel, Franklin, Rockefeller,
 Kauffman and Keiser)**

**Defining disability in the Washington law against
 discrimination.**

The bill was read the second time.

There being no objection, the committee amendment by
 the Committee on Judiciary was adopted. (For Committee
 amendment, see Journal, 79th Day, March 27, 2007.)

With the consent of the House, amendment (593) was
 withdrawn.

Representative Rodne moved the adoption of amendment
 (587):

Strike everything after the enacting clause and insert the
 following:

"Sec. 1. RCW 49.60.040 and 2006 c 4 s 4 are each amended to
 read as follows:

The definitions in this section apply throughout this chapter
 unless the context clearly requires otherwise.

(1) "Person" includes one or more individuals, partnerships,
 associations, organizations, corporations, cooperatives, legal
 representatives, trustees and receivers, or any group of persons; it
 includes any owner, lessee, proprietor, manager, agent, or employee,
 whether one or more natural persons; and further includes any
 political or civil subdivisions of the state and any agency or

instrumentality of the state or of any political or civil subdivision
 thereof;

(2) "Commission" means the Washington state human rights
 commission;

(3) "Employer" includes any person acting in the interest of an
 employer, directly or indirectly, who employs eight or more persons,
 and does not include any religious or sectarian organization not
 organized for private profit;

(4) "Employee" does not include any individual employed by his
 or her parents, spouse, or child, or in the domestic service of any
 person;

(5) "Labor organization" includes any organization which exists
 for the purpose, in whole or in part, of dealing with employers
 concerning grievances or terms or conditions of employment, or for
 other mutual aid or protection in connection with employment;

(6) "Employment agency" includes any person undertaking with
 or without compensation to recruit, procure, refer, or place employees
 for an employer;

(7) "Marital status" means the legal status of being married,
 single, separated, divorced, or widowed;

(8) "National origin" includes "ancestry";

(9) "Full enjoyment of" includes the right to purchase any
 service, commodity, or article of personal property offered or sold on,
 or by, any establishment to the public, and the admission of any
 person to accommodations, advantages, facilities, or privileges of any
 place of public resort, accommodation, assemblage, or amusement,
 without acts directly or indirectly causing persons of any particular
 race, creed, color, sex, sexual orientation, national origin, or with any
 sensory, mental, or physical disability, or the use of a trained dog
 guide or service animal by a ~~((disabled))~~ person with a disability, to
 be treated as not welcome, accepted, desired, or solicited;

(10) "Any place of public resort, accommodation, assemblage,
 or amusement" includes, but is not limited to, any place, licensed or
 unlicensed, kept for gain, hire, or reward, or where charges are made
 for admission, service, occupancy, or use of any property or facilities,
 whether conducted for the entertainment, housing, or lodging of
 transient guests, or for the benefit, use, or accommodation of those
 seeking health, recreation, or rest, or for the burial or other
 disposition of human remains, or for the sale of goods, merchandise,
 services, or personal property, or for the rendering of personal
 services, or for public conveyance or transportation on land, water,
 or in the air, including the stations and terminals thereof and the
 garaging of vehicles, or where food or beverages of any kind are sold
 for consumption on the premises, or where public amusement,
 entertainment, sports, or recreation of any kind is offered with or
 without charge, or where medical service or care is made available,
 or where the public gathers, congregates, or assembles for
 amusement, recreation, or public purposes, or public halls, public
 elevators, and public washrooms of buildings and structures occupied
 by two or more tenants, or by the owner and one or more tenants, or
 any public library or educational institution, or schools of special
 instruction, or nursery schools, or day care centers or children's
 camps: PROVIDED, That nothing contained in this definition shall
 be construed to include or apply to any institute, bona fide club, or
 place of accommodation, which is by its nature distinctly private,
 including fraternal organizations, though where public use is
 permitted that use shall be covered by this chapter; nor shall anything
 contained in this definition apply to any educational facility,
 columbarium, crematory, mausoleum, or cemetery operated or
 maintained by a bona fide religious or sectarian institution;

(11) "Real property" includes buildings, structures, dwellings,
 real estate, lands, tenements, leaseholds, interests in real estate

cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein;

(12) "Real estate transaction" includes the sale, appraisal, brokering, exchange, purchase, rental, or lease of real property, transacting or applying for a real estate loan, or the provision of brokerage services;

(13) "Dwelling" means any building, structure, or portion thereof that is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land that is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof;

(14) "Sex" means gender;

(15) "Sexual orientation" means heterosexuality, homosexuality, bisexuality, and gender expression or identity. As used in this definition, "gender expression or identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth;

(16) "Aggrieved person" means any person who: (a) Claims to have been injured by an unfair practice in a real estate transaction; or (b) believes that he or she will be injured by an unfair practice in a real estate transaction that is about to occur;

(17) "Complainant" means the person who files a complaint in a real estate transaction;

(18) "Respondent" means any person accused in a complaint or amended complaint of an unfair practice in a real estate transaction;

(19) "Credit transaction" includes any open or closed end credit transaction, whether in the nature of a loan, retail installment transaction, credit card issue or charge, or otherwise, and whether for personal or for business purposes, in which a service, finance, or interest charge is imposed, or which provides for repayment in scheduled payments, when such credit is extended in the regular course of any trade or commerce, including but not limited to transactions by banks, savings and loan associations or other financial lending institutions of whatever nature, stock brokers, or by a merchant or mercantile establishment which as part of its ordinary business permits or provides that payment for purchases of property or service therefrom may be deferred;

(20) "Families with children status" means one or more individuals who have not attained the age of eighteen years being domiciled with a parent or another person having legal custody of such individual or individuals, or with the designee of such parent or other person having such legal custody, with the written permission of such parent or other person. Families with children status also applies to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen years;

(21) "Covered multifamily dwelling" means: (a) Buildings consisting of four or more dwelling units if such buildings have one or more elevators; and (b) ground floor dwelling units in other buildings consisting of four or more dwelling units;

(22) "Premises" means the interior or exterior spaces, parts, components, or elements of a building, including individual dwelling units and the public and common use areas of a building;

(23) "Dog guide" means a dog that is trained for the purpose of guiding blind persons or a dog that is trained for the purpose of assisting hearing impaired persons;

(24) "Service animal" means an animal that is trained for the purpose of assisting or accommodating a ~~((disabled person's))~~ sensory, mental, or physical disability of a person with a disability;

(25)(a) "Disability" means the presence of a sensory, mental, or physical impairment that:

(i) Is medically cognizable or diagnosable; or

(ii) Exists as a record or history; or

(iii) Is perceived to exist whether or not it exists in fact.

(b) A disability exists whether it is temporary or permanent, common or uncommon.

(c) For purposes of this definition, "impairment" includes, but is not limited to:

(i) Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitor-urinary, hemic and lymphatic, skin, and endocrine; or

(ii) Any mental, developmental, traumatic, or psychological disorder, including but not limited to cognitive limitation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(d) An impairment must have a substantially limiting effect upon the individual's ability to perform his or her job, or the individual's ability to apply or be considered for a job."

Correct the title.

Representative Rodne spoke in favor of the adoption of the amendment.

Representative Lantz spoke against the adoption of the amendment.

The amendment was not adopted.

Representative Lantz moved the adoption of amendment (649):

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 49.60.040 and 2006 c 4 s 4 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Person" includes one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers, or any group of persons; it includes any owner, lessee, proprietor, manager, agent, or employee, whether one or more natural persons; and further includes any political or civil subdivisions of the state and any agency or instrumentality of the state or of any political or civil subdivision thereof;

(2) "Commission" means the Washington state human rights commission;

(3) "Employer" includes any person acting in the interest of an employer, directly or indirectly, who employs eight or more persons, and does not include any religious or sectarian organization not organized for private profit;

(4) "Employee" does not include any individual employed by his or her parents, spouse, or child, or in the domestic service of any person;

(5) "Labor organization" includes any organization which exists for the purpose, in whole or in part, of dealing with employers concerning grievances or terms or conditions of employment, or for other mutual aid or protection in connection with employment;

(6) "Employment agency" includes any person undertaking with or without compensation to recruit, procure, refer, or place employees for an employer;

(7) "Marital status" means the legal status of being married, single, separated, divorced, or widowed;

(8) "National origin" includes "ancestry";

(9) "Full enjoyment of" includes the right to purchase any service, commodity, or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement, without acts directly or indirectly causing persons of any particular race, creed, color, sex, sexual orientation, national origin, or with any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a ~~((disabled))~~ person with a disability, to be treated as not welcome, accepted, desired, or solicited;

(10) "Any place of public resort, accommodation, assemblage, or amusement" includes, but is not limited to, any place, licensed or unlicensed, kept for gain, hire, or reward, or where charges are made for admission, service, occupancy, or use of any property or facilities, whether conducted for the entertainment, housing, or lodging of transient guests, or for the benefit, use, or accommodation of those seeking health, recreation, or rest, or for the burial or other disposition of human remains, or for the sale of goods, merchandise, services, or personal property, or for the rendering of personal services, or for public conveyance or transportation on land, water, or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports, or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation, or public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or educational institution, or schools of special instruction, or nursery schools, or day care centers or children's camps: PROVIDED, That nothing contained in this definition shall be construed to include or apply to any institute, bona fide club, or place of accommodation, which is by its nature distinctly private, including fraternal organizations, though where public use is permitted that use shall be covered by this chapter; nor shall anything contained in this definition apply to any educational facility, columbarium, crematory, mausoleum, or cemetery operated or maintained by a bona fide religious or sectarian institution;

(11) "Real property" includes buildings, structures, dwellings, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein;

(12) "Real estate transaction" includes the sale, appraisal, brokering, exchange, purchase, rental, or lease of real property, transacting or applying for a real estate loan, or the provision of brokerage services;

(13) "Dwelling" means any building, structure, or portion thereof that is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land that is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof;

(14) "Sex" means gender;

(15) "Sexual orientation" means heterosexuality, homosexuality, bisexuality, and gender expression or identity. As used in this definition, "gender expression or identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth;

(16) "Aggrieved person" means any person who: (a) Claims to have been injured by an unfair practice in a real estate transaction; or (b) believes that he or she will be injured by an unfair practice in a real estate transaction that is about to occur;

(17) "Complainant" means the person who files a complaint in a real estate transaction;

(18) "Respondent" means any person accused in a complaint or amended complaint of an unfair practice in a real estate transaction;

(19) "Credit transaction" includes any open or closed end credit transaction, whether in the nature of a loan, retail installment transaction, credit card issue or charge, or otherwise, and whether for personal or for business purposes, in which a service, finance, or interest charge is imposed, or which provides for repayment in scheduled payments, when such credit is extended in the regular course of any trade or commerce, including but not limited to transactions by banks, savings and loan associations or other financial lending institutions of whatever nature, stock brokers, or by a merchant or mercantile establishment which as part of its ordinary business permits or provides that payment for purchases of property or service therefrom may be deferred;

(20) "Families with children status" means one or more individuals who have not attained the age of eighteen years being domiciled with a parent or another person having legal custody of such individual or individuals, or with the designee of such parent or other person having such legal custody, with the written permission of such parent or other person. Families with children status also applies to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen years;

(21) "Covered multifamily dwelling" means: (a) Buildings consisting of four or more dwelling units if such buildings have one or more elevators; and (b) ground floor dwelling units in other buildings consisting of four or more dwelling units;

(22) "Premises" means the interior or exterior spaces, parts, components, or elements of a building, including individual dwelling units and the public and common use areas of a building;

(23) "Dog guide" means a dog that is trained for the purpose of guiding blind persons or a dog that is trained for the purpose of assisting hearing impaired persons;

(24) "Service animal" means an animal that is trained for the purpose of assisting or accommodating a ~~((disabled person's))~~ sensory, mental, or physical disability of a person with a disability;

(25)(a) "Disability" means the presence of a sensory, mental, or physical impairment that:

(i) Is medically cognizable or diagnosable; or

(ii) Exists as a record or history; or

(iii) Is perceived to exist whether or not it exists in fact.

(b) A disability exists whether it is temporary or permanent, common or uncommon, mitigated or unmitigated, or whether or not it limits the ability to work generally or work at a particular job or whether or not it limits any other activity within the scope of this chapter.

(c) For purposes of this definition, "impairment" includes, but is not limited to:

(i) Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitor-urinary, hemic and lymphatic, skin, and endocrine; or

(ii) Any mental, developmental, traumatic, or psychological disorder, including but not limited to cognitive limitation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(d) Only for the purposes of qualifying for reasonable accommodation in employment, an impairment must be known or shown through an interactive process to exist in fact and:

(i) The impairment must have a substantially limiting effect upon the individual's ability to perform his or her job, the individual's ability to apply or be considered for a job, or the individual's access to equal benefits, privileges, or terms or conditions of employment; or

(ii) The employee must have put the employer on notice of the existence of an impairment, and medical documentation must establish a reasonable likelihood that engaging in job functions without an accommodation would aggravate the impairment to the extent that it would create a substantially limiting effect.

(e) For purposes of (d) of this subsection, a limitation is not substantial if it has only a trivial effect.

NEW SECTION. Sec. 2. This act is remedial and retroactive, and applies to all causes of action occurring before July 6, 2006, and to all causes of action occurring on or after the effective date of this act."

Correct the title.

Representative Rodne moved the adoption of amendment (682) to amendment (649):

On page 5, beginning on line 13 of the amendment, after "(d)" strike all material through "an" on line 14 and insert "An"

Representative Rodne spoke in favor of the adoption of the amendment to amendment (649).

Representative Lantz spoke against the adoption of the amendment to amendment (649).

Division was demanded and the demand was sustained. The Speaker (Representative Lovick presiding) divided the House. The result was 34 - YEAS; 64 -NAYS. Amendment (682) to amendment (649) was not adopted.

Amendment (649) was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House was placed on final passage.

Representatives Lantz and Goodman spoke in favor of passage of the bill.

Representative Rodne spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5340, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5340, as amended by the House and the bill passed the House by the following vote: Yeas - 66, Nays - 32, Absent - 0, Excused - 0.

Voting yea: Representatives Appleton, Armstrong, Barlow, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Eickmeyer, Ericks, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, O'Brien, Ormsby, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Upthegrove, Van De Wege, Wallace, Williams, Wood and Mr. Speaker - 66.

Voting nay: Representatives Ahern, Alexander, Anderson, Bailey, Buri, Chandler, Condotta, Crouse, Curtis, DeBolt, Dunn, Ericksen, Hailey, Hinkle, Jarrett, Kelley, Kretz, Kristiansen, McCune, McDonald, Newhouse, Orcutt, Pearson, Priest, Roach, Rodne, Ross, Schindler, Strow, Sump, Walsh and Warnick - 32.

SUBSTITUTE SENATE BILL NO. 5340, as amended by the House, having received the necessary constitutional majority, was declared passed.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5627, By Senate Committee on Ways & Means (originally sponsored by Senators McAuliffe, Clements, Tom, Weinstein, Rockefeller, Oemig, Kastama, Hobbs, Pridemore, Eide, Franklin, Shin, Regala, Marr, Murray, Spanel, Hargrove, Kline, Kilmer, Haugen, Kohl-Welles and Rasmussen)

Requiring a review and development of basic education funding.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Appropriations was not adopted. (For Committee amendment, see Journal, 85th Day, April 2, 2007.)

Representative Haigh moved the adoption of amendment (603):

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 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 is intended to make provision for some significant steps towards a new basic education funding system and establishes a joint task force to address the details and next steps beyond the 2007-2009 biennium that will be necessary to implement a new comprehensive K-12 finance formula or 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. (1) The joint task force on basic education finance established under this section, with research support from the Washington state institute for public policy, shall review the definition of basic education and all current basic education funding formulas, develop options for a new funding structure and all necessary formulas, and propose 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 chapter 28A.150 RCW.

(2) The joint task force on basic education finance shall consist of fourteen members:

(a) A chair of the task force with experience with Washington finance issues including knowledge of the K-12 funding formulas, appointed by the governor;

(b) Eight legislators, with two members from each of the two largest caucuses of the senate appointed by the president of the senate and two members from each of the two largest caucuses of the house of representatives appointed by the speaker of the house of representatives;

(c) A representative of the governor's office or the office of financial management, designated by the governor;

(d) The superintendent of public instruction or the superintendent's designee; and

(e) Three individuals with significant experience with Washington K-12 finance issues, including the use and application of the current basic education funding formulas, appointed by the governor. Each of the two largest caucuses of the house of representatives and the senate may submit names to the governor for consideration.

(3) In conducting research directed by the task force and developing options for consideration by the task force, the Washington state institute for public policy shall consult with stakeholders and experts in the field. The institute may also request assistance from the legislative evaluation and accountability program committee, the office of the superintendent of public instruction, the office of financial management, the house office of program research, and senate committee services.

(4) In developing recommendations, the joint task force 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 institute as directed by the legislature in section 607(15), chapter 372, Laws of 2006.

(5) The Washington state institute for public policy shall provide the following reports to the joint task force:

(a) An initial report by September 15, 2007, proposing an initial plan of action, reporting dates, timelines for fulfilling the requirements of section 3 of this act, and an initial timeline for a phased-in implementation of a new funding system that does not exceed six years;

(b) A second report by December 1, 2007, including implementing legislation as necessary, for at least two but no more than four options for allocating school employee compensation. One of the options must be a redirection and prioritization within existing resources based on research-proven education programs. The report must also include a projection of the expected effect of the investment made under the new funding structure. The second report shall also include a finalized timeline and plan for addressing the remaining components of a new funding system; and

(c) A final report with at least two but no more than four options for revising the remaining K-12 funding structure, including implementing legislation as necessary, and a timeline for phasing in full adoption of the new funding structure. The final report shall be submitted to the joint task force by September 15, 2008. One of the options must be a redirection and prioritization within existing resources based on research-proven education programs. The final report must also include a projection of the expected effect of the investment made under the new funding structure.

NEW SECTION. Sec. 3. (1) The funding structure alternatives developed by the joint task force under section 2 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) The funding structure 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 the possible strategies and models to include in the funding structure the task force 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 elements; 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 in order to better help parents, citizens, and school personnel in Washington understand how their school system is funded.

(4) The funding structure should be linked to accountability for student outcomes and performance.

NEW SECTION. Sec. 4. As the joint task force considers a new definition of basic education as required under section 2 of this act, the task force shall consider the following proposed basic education goals and shall make recommendations regarding whether the proposed goals provide adequate guidance and vision for the state's education system in the twenty-first century:

"The goal of the basic education act for the schools of the state of Washington set forth in this chapter shall be to provide students with the opportunity to become responsible and respectful global citizens, to contribute to their economic well-being and that of their families and communities, to explore and understand diverse perspectives, to enjoy productive and satisfying lives, and to develop a public school system that focuses on the educational achievement of all students, which includes high expectations for and prepares students to achieve personal and academic success. To these ends, the goals of each school district, with the involvement of parents and community members, shall be to provide opportunities for every student to develop the knowledge and skills essential to:

(1) Read with comprehension, write effectively, and communicate successfully in a variety of ways and settings and with a variety of audiences;

(2) Know and apply the core concepts and principles of mathematics; social, physical, and life sciences; world history, cultures, and geography; civics and arts; and health and fitness;

(3) Think analytically, logically, and creatively, and to integrate different experiences and knowledge to form reasoned judgments and solve problems;

(4) Understand the importance of work and personal financial literacy and how performance, effort, and decisions directly affect future career and educational opportunities; and

(5) Understand and be fully prepared to exercise the responsibilities of civic participation in a pluralistic society."

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.

Representative Anderson moved the adoption of amendment (607) to amendment (603):

On page 1, line 27 of the striking amendment, after "formulas" strike all material through "RCW" on page 2, line 2 and insert "and shall develop options for a new funding structure, all necessary formulas, and a new definition of basic education that are realigned with the expectations of a performance-based education system as set forth in chapter 336, laws of 1993, and successor legislation"

Representative Anderson spoke in favor of the adoption of the amendment to amendment (603).

Representative Haigh spoke against the adoption of the amendment to amendment (603).

The amendment to amendment (603) was not adopted.

Representative Priest moved the adoption of amendment (608) to amendment (603):

On page 2, line 5 of the striking amendment, after "(a)" strike all material through "governor" on line 7 and insert "The governor, who shall serve as chair of the task force"

On page 3, line 3 of the striking amendment, after "report" strike "by September 15, 2007,"

On page 3, line 8 of the striking amendment, after "report" strike "by December 1, 2007,"

On page 3, beginning on line 21 of the striking amendment, after "force by" strike "September 15, 2008" and insert "December 15, 2007"

Representatives Priest and Anderson spoke in favor of the adoption of the amendment to amendment (603).

Representative Haigh spoke against the adoption of the amendment to amendment (603).

The amendment to amendment (603) was not adopted.

Representative Anderson moved the adoption of amendment (609) to amendment (603):

On page 4, line 1 of the striking amendment, after "(b)" strike all material through "(c)" on line 7

Renumber the remaining subsections consecutively.

On page 4, after line 18 the striking amendment, insert the following:

"(5) The task force shall recommend a compensation system for instructional staff that includes pay for performance, knowledge, and skills elements; elements to recognize assignments that are difficult; and recognition for the professional teaching level certificate in the salary allocation model. The task force shall also recommend a plan to implement the revised compensation system."

Representatives Anderson and Haigh spoke in favor of the adoption of the amendment to amendment (603).

The amendment to amendment (603) was adopted.

Representative Anderson moved the adoption of amendment (626) to amendment (603):

On page 5, after line 14 of the striking amendment, insert the following:

NEW SECTION. Sec. 5. A new section is added to chapter 44.04 RCW to read as follows:

Under Article IX, section 1 of the state Constitution, it is the paramount duty of the state to make ample provision for the education of all of Washington's children. According to the state supreme court, this constitutional provision requires that the legislature define and fully fund a program of K-12 basic education

before the legislature funds any other statutory programs. For these reasons, it is the intent of the legislature to require that all appropriations for K-12 basic education, together with appropriations for other K-12 education programs, be enacted into law before the legislature takes executive action on other omnibus appropriations legislation.

Sec. 6. RCW 28A.150.380 and 2001 c 3 s 10 are each amended to read as follows:

(1) The state legislature shall, at each regular session in an odd-numbered year, appropriate from the state general fund for the current use of the common schools such amounts as needed for state support to the common schools during the ensuing biennium as provided in this chapter, RCW 28A.160.150 through 28A.160.210, 28A.300.170, and 28A.500.010.

(2) The state legislature shall also, at each regular session in an odd-numbered year, appropriate from the student achievement fund and education construction fund solely for the purposes of and in accordance with the provisions of the student achievement act during the ensuing biennium.

(3) Beginning with the 2009-11 fiscal biennium and thereafter, appropriations for the purposes of this section and other K-12 education purposes must be made in legislation that is separate from the omnibus operating appropriations act. Such appropriations must be enacted into law before it is in order for either house of the legislature to take executive action on omnibus operating appropriations legislation.

NEW SECTION. Sec. 7. A new section is added to chapter 44.04 RCW to read as follows:

Beginning with the 2009-11 fiscal biennium and thereafter, appropriations for the purposes of RCW 28A.150.380 and other K-12 education purposes must be enacted into law before it is in order for either house of the legislature to take executive action on omnibus operating or transportation appropriations legislation.

The house of representatives and senate, jointly or separately, may adopt rules or resolutions to implement their respective responsibilities under this section."

Renumber the remaining section consecutively.

Representative Anderson spoke in favor of the adoption of the amendment to amendment (603).

Representative Quall spoke against the adoption of the amendment to amendment (603).

The amendment to amendment (603) was not adopted.

The amendment (603) as amended was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House was placed on final passage.

Representative Haigh spoke in favor of passage of the bill.

Representatives Bailey and Priest spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Second Substitute Senate Bill No. 5627, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5627, as amended by the House and the bill passed the House by the following vote: Yeas - 62, Nays - 36, Absent - 0, Excused - 0.

Voting yea: Representatives Appleton, Barlow, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Eickmeyer, Ericks, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Kagi, Kelley, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, O'Brien, Ormsby, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Schual-Berke, Seaquist, Sells, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Upthegrove, Van De Wege, Wallace, Williams, Wood and Mr. Speaker - 62.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buri, Campbell, Chandler, Condotta, Crouse, Curtis, DeBolt, Dunn, Ericksen, Hailey, Haler, Hankins, Hinkle, Jarrett, Kretz, Kristiansen, McCune, McDonald, Newhouse, Orcutt, Pearson, Priest, Roach, Rodne, Ross, Schindler, Skinner, Strow, Sump, Walsh and Warnick - 36.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5627, as amended by the House, having received the necessary constitutional majority, was declared passed.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5894, By Senate Committee on Water, Energy & Telecommunications (originally sponsored by Senators Rockefeller, Poulsen, Fraser, Oemig, Shin and Carrell; by request of Department of Health)

Clarifying the regulatory authority for on-site sewage systems.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Appropriations was before the House for purpose of amendment. (For Committee amendment, see Journal, 85th Day, April 2, 2007.)

With the consent of the House, amendment (578) was withdrawn.

Representative Hunt moved the adoption of amendment (648) to the committee amendment:

On page 5, line 27, after "regulating" insert "large"

On page 5, line 34, after "compliance with" insert "large"

On page 7, line 4, after "in which the" insert "large"

On page 7, line 17, after "assistance to" insert "large"

Representatives Hunt and Newhouse spoke in favor of the adoption of the amendment to the committee amendment.

The amendment to the committee amendment was adopted.

POINT OF INQUIRY

Representative Newhouse: ****

SPEAKER'S RULING

Mr. Speaker (Representative Lovick presiding): "The Speaker will not speculate and has no authority to rule on what the judiciary might do on this or any measure."

Representative Newhouse moved the adoption of amendment (597) to the committee amendment:

On page 7, at the beginning of line 32, strike all material through "department." on page 9, line 12

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

Representative Newhouse spoke in favor of the adoption of the amendment to the committee amendment.

Representative Hudgins spoke against the adoption of the amendment to the committee amendment.

The amendment to the committee amendment was not adopted.

Representative Hunt moved the adoption of amendment (600) to the committee amendment:

On page 8, at the beginning of line 8, insert "the amount of a penalty shall not exceed one thousand dollars per day for every violation, and"

Representatives Hunt and Newhouse spoke in favor of the adoption of the amendment to the committee amendment.

The amendment to the committee amendment was adopted.

The committee amendment as amended was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House was placed on final passage.

Representatives Hunt and Newhouse spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5894, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5894, as amended by the House and the bill passed the House by the following vote: Yeas - 71, Nays - 27, Absent - 0, Excused - 0.

Voting yea: Representatives Appleton, Barlow, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Eickmeyer, Ericks, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Newhouse, O'Brien, Ormsby, Pedersen, Pettigrew, Priest, Quall, Roberts, Rolfes, Ross, Santos, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Upthegrove, Van De Wege, Wallace, Walsh, Williams, Wood and Mr. Speaker - 71.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buri, Chandler, Condotta, Crouse, Curtis, DeBolt, Dunn, Ericksen, Hailey, Haler, Hankins, Kretz, Kristiansen, McCune, Orcutt, Pearson, Roach, Rodne, Schindler, Strow, Sump and Warnick - 27.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5894, as amended by the House, having received the necessary constitutional majority, was declared passed.

SECONDSUBSTITUTE SENATE BILL NO. 5188, By Senate Committee on Transportation (originally sponsored by Senators Haugen, Jacobsen, Prentice, Fairley, Kline, Marr, Kohl-Welles, Tom, Murray, Keiser and Rasmussen)

Establishing a wildlife rehabilitation program.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Appropriations was before the House for purpose of amendment. (For Committee amendment, see Journal, 85th Day, April 2, 2007.)

Representative Orcutt moved the adoption of amendment (663) to the committee amendment:

On page 1, beginning on line 11 of the amendment, strike all of section 2 and insert the following:

"Sec. 2. RCW 46.16.313 and 2005 c 426 s 3, 2005 c 225 s 3, 2005 c 224 s 3, 2005 c 220 s 3, 2005 c 216 s 3, 2005 c 177 s 3, 2005 c 85 s 3, 2005 c 71 s 3, 2005 c 53 s 3, 2005 c 48 s 3, 2005 c 44 s 3, and 2005 c 42 s 3 are each reenacted and amended to read as follows:

(1) The department may establish a fee of no more than forty dollars for each type of special license plates issued under RCW 46.16.301(1) (a), (b), or (c), as existing before amendment by section 5, chapter 291, Laws of 1997, in an amount calculated to offset the cost of production of the special license plates and the administration of this program. This fee is in addition to all other fees required to register and license the vehicle for which the plates have been requested. All such additional special license plate fees collected by the department shall be deposited in the state treasury and credited to the motor vehicle fund.

(2) In addition to all fees and taxes required to be paid upon application and registration of a motor vehicle, the holder of a collegiate license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. The state treasurer shall credit the funds to the appropriate collegiate license plate fund as provided in RCW 28B.10.890.

(3) In addition to all fees and taxes required to be paid upon renewal of a motor vehicle registration, the holder of a collegiate license plate shall pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. The state treasurer shall credit the funds to the appropriate collegiate license plate fund as provided in RCW 28B.10.890.

(4) In addition to all fees and taxes required to be paid upon application and registration of a motor vehicle, the holder of a special baseball stadium license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds, minus the cost of plate production, shall be distributed to a county for the purpose of paying the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs, while the taxes are being collected under RCW 82.14.360. After this date, the state treasurer shall credit the funds to the state general fund.

(5) In addition to all fees and taxes required to be paid upon renewal of a motor vehicle registration, the holder of a special baseball stadium license plate shall pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be distributed to a county for the purpose of paying the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs, while the taxes are being collected under RCW 82.14.360. After this date, the state treasurer shall credit the funds to the state general fund.

(6) Effective with vehicle registrations due or to become due on January 1, 2005, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a professional fire fighters and paramedics license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the professional fire fighters and paramedics license plates. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the Washington State Council of Fire Fighters benevolent fund established under RCW 46.16.30902.

(7) Effective with annual renewals due or to become due on January 1, 2006, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a professional fire fighters and paramedics license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the professional fire fighters and paramedics special license plate. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the Washington State Council of Fire Fighters benevolent fund established under RCW 46.16.30902.

(8) Effective with vehicle registrations due or to become due on November 1, 2004, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a "Helping Kids Speak" license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Helping Kids Speak" special license plate. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the "Helping Kids Speak" account established under RCW 46.16.30904.

(9) Effective with annual renewals due or to become due on November 1, 2005, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a "Helping Kids Speak" license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Helping Kids Speak" special license plate. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the "Helping Kids Speak" account established under RCW 46.16.30904.

(10) Effective with vehicle registrations due or to become due on January 1, 2005, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a "law enforcement memorial" license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the law enforcement memorial special license plate. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the law enforcement memorial account established under RCW 46.16.30906.

(11) Effective with annual renewals due or to become due on January 1, 2006, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a "law enforcement memorial" license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the law enforcement memorial special license plate. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the law enforcement memorial account established under RCW 46.16.30906.

(12)(a) Effective with vehicle registrations due or to become due on or after January 1, 2006, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a Washington's Wildlife collection license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the Washington's Wildlife license plate collection. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the state wildlife account. Proceeds credited to the state wildlife account from the sale of the Washington's Wildlife license plate collection may be used only for the department of fish and wildlife's game species management activities.

(b) Effective with annual renewals due or to become due on or after January 1, 2007, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a Washington's Wildlife collection license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the Washington's Wildlife license plate collection. Upon determination by the department that the state has been reimbursed, the treasurer shall

credit the proceeds to the state wildlife account. Proceeds credited to the state wildlife account from the sale of the Washington's Wildlife license plate collection may be used only for the department of fish and wildlife's game species management activities.

(c) In addition to the fees imposed under (a) and (b) of this subsection, a two-dollar fee shall be imposed on each initial application and renewal under this subsection and shall be deposited into the wildlife rehabilitation account created in section 3 of this act.

(13)(a) Effective with vehicle registrations due or to become due on or after January 1, 2006, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a Washington state parks and recreation commission special license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the Washington state parks and recreation commission special license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the state parks education and enhancement account established in RCW 79A.05.059.

(b) Effective with annual renewals due or to become due on or after January 1, 2007, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a Washington state parks and recreation commission special license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the Washington state parks and recreation commission special license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the state parks education and enhancement account established in RCW 79A.05.059.

(14)(a) Effective with vehicle registrations due or to become due on or after January 1, 2006, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a "Washington Lighthouses" license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Washington Lighthouses" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the lighthouse environmental programs account established under RCW 46.16.30912.

(b) Effective with annual renewals due or to become due on or after January 1, 2007, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a "Washington Lighthouses" license plate shall, upon application, pay

a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Washington Lighthouses" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the lighthouse environmental programs account established under RCW 46.16.30912.

(15)(a) Effective with vehicle registrations due or to become due on or after January 1, 2006, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a "Keep Kids Safe" license plate shall pay an initial fee of forty-five dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Keep Kids Safe" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the children's trust fund established under RCW 43.121.100.

(b) Effective with annual renewals due or to become due on or after January 1, 2007, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a "Keep Kids Safe" license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Keep Kids Safe" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the children's trust fund established under RCW 43.121.100.

(16)(a) Effective with vehicle registrations due or to become due on or after January 1, 2006, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a "we love our pets" license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administrative and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "we love our pets" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the we love our pets account established under RCW 46.16.30915.

(b) Effective with annual renewals due or to become due on or after January 1, 2007, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a "we love our pets" license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two

dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "we love our pets" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the we love our pets account established under RCW 46.16.30915.

(17)(a) Effective with vehicle registrations due or to become due on or after January 1, 2006, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a "Gonzaga University alumni association" license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administrative and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Gonzaga University alumni association" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the Gonzaga University alumni association account established under RCW 46.16.30917.

(b) Effective with annual renewals due or to become due on or after January 1, 2007, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a "Gonzaga University alumni association" license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Gonzaga University alumni association" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the Gonzaga University alumni association account established under RCW 46.16.30917.

(18) Effective with vehicle registrations due or to become due on or after January 1, 2006, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a "Washington's National Park Fund" license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Washington's National Park Fund" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the "Washington's National Park Fund" account established under RCW 46.16.30919.

(19) Effective with annual renewals due or to become due on or after January 1, 2007, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a "Washington's National Park Fund" license plate shall, upon

application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Washington's National Park Fund" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the "Washington's National Park Fund" account established under RCW 46.16.30919.

(20)(a) Effective with vehicle registrations due or to become due on or after January 1, 2006, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of an armed forces license plate shall pay an initial fee of forty dollars. The department shall retain an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the armed forces special license plate collection. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the veterans stewardship account established under RCW 43.60A.140.

(b) Effective with annual renewals due or to become due on or after January 1, 2007, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of an armed forces license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the armed forces special license plate collection. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the veterans stewardship account established in RCW 43.60A.140.

(21)(a) Effective with vehicle registrations due or to become due on or after January 1, 2006, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a "Ski & Ride Washington" license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Ski & Ride Washington" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the "Ski & Ride Washington" account established under RCW 46.16.30923.

(b) Effective with annual renewals due or to become due on or after January 1, 2007, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a "Ski & Ride Washington" license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed

two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Ski & Ride Washington" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the "Ski & Ride Washington" account established under RCW 46.16.30923.

(22)(a) Effective with vehicle registrations due or to become due on or after January 1, 2006, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a Wild On Washington license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the Wild On Washington license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the state wildlife account. Proceeds credited to the state wildlife account from the sale of the Wild On Washington license plates must be dedicated to the department of fish and wildlife's watchable wildlife activities defined in RCW 77.32.560(2).

(b) Effective with annual renewals due or to become due on or after January 1, 2007, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a Wild On Washington license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the Wild On Washington license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the state wildlife account. Proceeds credited to the state wildlife account from the sale of the Wild On Washington license plates must be dedicated to the department of fish and wildlife's watchable wildlife activities defined in RCW 77.32.560(2).

(c) In addition to the fees imposed under (a) and (b) of this subsection, a two-dollar fee shall be imposed on each initial application and renewal under this subsection and shall be deposited into the wildlife rehabilitation account created in section 3 of this act.

(23)(a) Effective with vehicle registrations due or to become due on or after January 1, 2006, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of an Endangered Wildlife license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the Endangered Wildlife license plate. Upon

determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the state wildlife account. Proceeds credited to the state wildlife account from the sale of the Endangered Wildlife license plates must be used only for the department of fish and wildlife's endangered wildlife program activities.

(b) Effective with annual renewals due or to become due on or after January 1, 2007, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of an Endangered Wildlife license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the Endangered Wildlife license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the state wildlife account. Proceeds credited to the state wildlife account from the sale of the Endangered Wildlife license plates must be used only for the department of fish and wildlife's endangered wildlife program activities.

(c) In addition to the fees imposed under (a) and (b) of this subsection, a two-dollar fee shall be imposed on each initial application and renewal under this subsection and shall be deposited into the wildlife rehabilitation account created in section 3 of this act.

(24)(a) Effective with vehicle registrations due or to become due on or after January 1, 2006, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a "Share the Road" license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Share the Road" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the "Share the Road" account established under RCW 46.16.30929.

(b) Effective with annual renewals due or to become due on or after January 1, 2007, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a "Share the Road" license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Share the Road" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the "Share the Road" account established under RCW 46.16.30929."

On page 1, line 25 of the amendment, strike "46.16.606" and insert "46.16.313 (12), (22), and (23)"

On page 3, line 16 of the amendment, after "registrations" insert "and renewals"

Correct the title.

Representative Orcutt spoke in favor of the adoption of the amendment to the committee amendment.

Representative B. Sullivan spoke against the adoption of the amendment to the committee amendment.

The amendment to the committee amendment was not adopted.

The committee amendment was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House was placed on final passage.

Representatives B. Sullivan, Orcutt and Hunter spoke in favor of passage of the bill.

Representative Orcutt spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Second Substitute Senate Bill No. 5188, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute Senate Bill No. 5188, as amended by the House and the bill passed the House by the following vote: Yeas - 52, Nays - 46, Absent - 0, Excused - 0.

Voting yea: Representatives Appleton, Barlow, Blake, Chase, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, Miloscia, Moeller, O'Brien, Ormsby, Pedersen, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Seaquist, Sells, Simpson, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Upthegrove, Van De Wege, Williams, Wood and Mr. Speaker - 52.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buri, Campbell, Chandler, Clibborn, Condotta, Crouse, Curtis, DeBolt, Dunn, Ericksen, Goodman, Hailey, Haler, Hankins, Hinkle, Hunter, Hurst, Jarrett, Kelley, Kretz, Kristiansen, McCune, McDonald, McIntire, Morrell, Morris, Newhouse, Orcutt, Pearson, Priest, Roach, Rodne, Rolfes, Ross, Schindler, Skinner, Sump, Takko, Wallace, Walsh and Warnick - 46.

SECOND SUBSTITUTE SENATE BILL NO. 5188, as amended by the House, having received the necessary constitutional majority, was declared passed.

SUBSTITUTE SENATE BILL NO. 5984, By Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Murray and Clements)

Allowing only structural engineers to provide engineering services for significant structures.

The bill was read the second time.

Representative Hinkle moved the adoption of amendment (655):

Beginning on page 6, line 29, strike all of subsection (11) and insert:

"(11)(a) "Significant structures" include:

(i) Hazardous facilities, defined as: Structures housing, supporting, or containing sufficient quantities of explosive substances to be of danger to the safety of the public if released;

(ii) Essential facilities that have a ground area of more than five thousand square feet and are more than twenty feet in mean roof height above average ground level. Essential facilities are defined as:

(A) Hospitals and other medical facilities having surgery and emergency treatment areas;

(B) Fire and police stations;

(C) Tanks or other structures containing, housing, or supporting water or fire suppression material or equipment required for the protection of essential or hazardous facilities or special occupancy structures;

(D) Emergency vehicle shelters and garages;

(E) Structures and equipment in emergency preparedness centers;

(F) Standby power-generating equipment for essential facilities;

(G) Structures and equipment in government communication centers and other facilities requiring emergency response;

(H) Aviation control towers, air traffic control centers, and emergency aircraft hangars; and

(I) Buildings and other structures having critical national defense functions;

(iii) Structures exceeding one hundred feet in height above average ground level;

(iv) Buildings that are customarily occupied by human beings and are five stories or more above average ground level;

(v) Bridges having a total span of more than two hundred feet and piers having a surface area greater than ten thousand square feet; and

(vi) Buildings and other structures where more than three hundred people congregate in one area.

(b) "Significant structures" do not include aircraft or vessels."

Representative Strow spoke in favor of the adoption of the amendment.

Representative Wood spoke against the adoption of the amendment.

The amendment was not adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Wood and Condotta spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5984.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5984 and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Buri, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hailey, Haler, Hankins, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 98.

SUBSTITUTE SENATE BILL NO. 5984, having received the necessary constitutional majority, was declared passed.

SENATE JOINT RESOLUTION NO. 8212, By Senators Hargrove, Carrell, Regala and Stevens

Revising limitations on use of inmate labor.

The joint resolution was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the joint resolution was placed on final passage.

Representatives O'Brien and Pearson spoke in favor of passage of the joint resolution.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Joint Resolution No. 8212.

ROLL CALL

The Clerk called the roll on the final passage of Senate Joint Resolution No. 8212 and the joint resolution passed the House by the following vote: Yeas - 83, Nays - 15, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Curtis, Darneille, Dickerson, Dunshee, Eddy, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hankins, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 83.

Voting nay: Representatives Buri, Crouse, DeBolt, Dunn, Ericksen, Goodman, Hailey, Haler, Hasegawa, Kretz, Kristiansen, Morris, Newhouse, Priest, and Schindler - 15.

SENATE JOINT RESOLUTION NO. 8212, having received the necessary two-thirds constitutional majority, was declared passed.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5098, By Senate Committee on Ways & Means (originally sponsored by Senators Rockefeller, Keiser, Weinstein, Fairley, Marr, Murray, Kastama, Kohl-Welles, Rasmussen, McAuliffe, Kauffman, Kilmer, Tom and Shin)

Creating the Washington guaranteed scholarship program. (REVISED FOR ENGROSSED: Creating the Washington college bound scholarship program.)

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Higher Education was adopted. (For Committee amendment, see Journal, 82nd Day, March 30, 2007.)

Representative Anderson moved the adoption of amendment (680):

On page 2, line 13, after "least a" strike "C" and insert "B"

On page 2, line 22, after "least a" strike ""C"" and insert "B"

Representative Anderson spoke in favor of the adoption of the amendment.

Representative Wallace spoke against the adoption of the amendment.

The amendment was not adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House was placed on final passage.

Representatives Wallace and Anderson spoke in favor of passage of the bill.

Representative Schindler spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Second Substitute Senate Bill No. 5098, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5098, as amended by the House and the bill passed the House by the following vote: Yeas - 78, Nays - 20, Absent - 0, Excused - 0.

Voting yea: Representatives Alexander, Anderson, Appleton, Bailey, Barlow, Blake, Buri, Campbell, Chase, Clibborn, Cody, Conway, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Eickmeyer, Ericks, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Newhouse, O'Brien, Ormsby, Pedersen, Pettigrew, Priest, Quall, Roberts, Rodne, Rolfes, Ross, Santos, Schual-Berke, Seaquist, Sells, Simpson, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Takko, Upthegrove, Van De Wege, Wallace, Williams, Wood and Mr. Speaker - 78.

Voting nay: Representatives Ahern, Armstrong, Chandler, Condotta, Crouse, Curtis, Ericksen, Hailey, Haler, Hinkle, Kretz, Kristiansen, Orcutt, Pearson, Roach, Schindler, Skinner, Sump, Walsh and Warnick - 20.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5098, as amended by the House, having received the necessary constitutional majority, was declared passed.

SUBSTITUTE SENATE BILL NO. 5445, By Senate Committee on Water, Energy & Telecommunications (originally sponsored by Senators Jacobsen, Morton and Rasmussen)

Regarding cost-reimbursement agreements.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Morris and Crouse spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5445.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5445 and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Buri, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hailey, Haler, Hankins, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 98.

SUBSTITUTE SENATE BILL NO. 5445, having received the necessary constitutional majority, was declared passed.

There being no objection, the House reverted to the fourth order of business.

INTRODUCTION & FIRST READING

HB 2403 by Representatives Roach, Orcutt, Ericksen, Schindler, Rodne, Ahern, Warnick, McDonald, Hailey, Priest, Alexander, Bailey, Haler, Newhouse, Jarrett, Condotta, Hinkle, Kristiansen, McCune, Strow, Chandler, Kelley, VanDeWege and Campbell

AN ACT Relating to limiting property tax increases to one percent by reenacting the provisions of Initiative Measure No. 747; reenacting RCW 84.55.005 and 84.55.0101; and declaring an emergency.

MOTION

Representative Orcutt moved that the rules be suspended, that HOUSE BILL NO. 2403 be advanced to Second Reading, and be read the second in full.

POINT OF ORDER

Representative Springer requested a ruling on the order of business of the motion.

SPEAKER'S RULING

Mr. Speaker (Representative Lovick presiding): "House Concurrent Resolution No. 4401 establishes cutoff dates by which measures must be considered by committees and the house of origin.

The resolution states that Wednesday, March 14, 2007, the sixty-sixth day at 5:00 p.m. is the final time to consider bills in the house of origin, and goes on to list limited exceptions to that cutoff, including initiatives, alternatives to initiatives, budgets and matters necessary to implement budgets.

HOUSE BILL NO. 2403 does not fall within the enumerated exceptions to the Wednesday, March 14th deadline for consideration of bills in the house of origin, and may not be considered by this body under the terms of the cutoff resolution.

The motion is out of order. Representative Springer, your point of order is well taken."

With the consent of the House, House Bill No. 2403 is referred to the Committee on Finance.

REPORTS OF STANDING COMMITTEES

April 9, 2007

ESSB 5080 Prime Sponsor, Senate Committee On Transportation: Extending tire replacement fees. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Clibborn, Chairman; Flannigan, Vice Chairman; Jarrett, Ranking Minority Member; Appleton; Campbell; Eddy; Hudgins; Lovick; Rodne; Rolfes; Sells; Simpson; Springer; B. Sullivan; Takko; Upthegrove and Wood.

MINORITY recommendation: Do not pass. Signed by Representatives Schindler, Assistant Ranking Minority Member; Armstrong and Hailey.

Passed to Committee on Rules for second reading.

There being no objection, the bill 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 eleventh order of business.

With the consent of the House, the Committee on Appropriations was relieved of further consideration on Senate Bill No. 6081, and the bill was referred to the Committee on Rules.

There being no objection, The Committee on Rules was relieved of the following bills which were placed on the Second Reading calendar:

HOUSE BILL NO. 2101,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5080,
SUBSTITUTE SENATE BILL NO. 5568,
SUBSTITUTE SENATE BILL NO. 5731,
SENATE BILL NO. 5773,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6117,

There being no objection, the House adjourned until 10:00 a.m., April 11, 2007, the 94th Day of the Regular Session.

FRANK CHOPP, Speaker

RICHARD NAFZIGER, Chief Clerk

Draft