

THIRTY-THIRD DAY, FEBRUARY 10, 2006

2006 REGULAR SESSION

**THIRTY-THIRD DAY****MORNING SESSION**

Senate Chamber, Olympia, Friday, February 10, 2006

The Senate was called to order at 9:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Brown, Deccio, Doumit, Fairley, McCaslin, Oke, Parlette, Pflug, Poulsen, Roach and Thibaudeau.

The Sergeant at Arms Color Guard consisting of Pages John Matthews and Celeste McDonald, presented the Colors. Pastor Leon Meyer of the Calvary Baptist Church offered the prayer.

**MOTION**

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

**MOTION**

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

**MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS**

February 10, 2006

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

RICHARD VAN HOLLEBEKE, appointed August 15, 2005, for the term ending September 30, 2010, as Member, Board of Trustees, Edmonds Community College District No. 23.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Early Learning, K-12 & Higher Education.

**MOTION**

On motion of Senator Eide, the appointee listed on the Gubernatorial Appointments report was referred to the committee as designated.

**MOTION**

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

**MESSAGE FROM THE HOUSE**

February 9, 2006

MR. PRESIDENT:

The House has passed the following bill(s):

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1010,  
SUBSTITUTE HOUSE BILL NO. 2395,  
SUBSTITUTE HOUSE BILL NO. 2423,  
HOUSE BILL NO. 2465,  
HOUSE BILL NO. 2466,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2507,  
SECOND SUBSTITUTE HOUSE BILL NO. 2583,  
SECOND SUBSTITUTE HOUSE BILL NO. 2595,  
SUBSTITUTE HOUSE BILL NO. 2733,  
SECOND SUBSTITUTE HOUSE BILL NO. 2789,  
SUBSTITUTE HOUSE BILL NO. 2812

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

**MESSAGE FROM THE HOUSE**

February 9, 2006

MR. PRESIDENT:

The House has passed the following bill(s):

SUBSTITUTE HOUSE BILL NO. 2817,  
HOUSE BILL NO. 2857,  
SECOND SUBSTITUTE HOUSE BILL NO. 2964,  
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

**MOTION**

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

**INTRODUCTION AND FIRST READING OF HOUSE BILLS**

E2SHB 1071 by House Committee on Appropriations (originally sponsored by Representatives Campbell and Morrell)

AN ACT Relating to the uniform disciplinary act for health professions; amending RCW 18.130.050, 18.130.060, and 18.130.160; adding a new section to chapter 18.130 RCW; and creating new sections.

Referred to Committee on Health &amp; Long-Term Care.

SHB 1107 by House Committee on Appropriations (originally sponsored by Representatives Dickerson, Talcott, Linville, Tom, Priest, Darneille, Pettigrew, Shabro, Jarrett, McCoy, Roberts, Kagi, Clements, Dunn, Hunter, Quall, Haler, Hinkle, Cody, Walsh, Ormsby, Kilmer, Simpson, Kessler, Morrell, Williams, O'Brien, Chase, Hunt, Schual-Berke, Conway, Santos, Haigh, Upthegrove and B. Sullivan)

AN ACT Relating to early intervention services for children with disabilities; and adding new sections to chapter 28A.155 RCW.

Referred to Committee on Early Learning, K-12 &amp; Higher Education.

EHB 1383 by Representatives Condotta, Bailey, Newhouse, Curtis, Hinkle, Pearson, Kretz, Strow, Armstrong, Kristiansen, Talcott, Skinner and Holmquist

AN ACT Relating to the public employees' benefits board; amending RCW 41.05.006; and reenacting and amending RCW 41.05.065.

Referred to Committee on Health &amp; Long-Term Care.

4SHB 1483 by House Committee on Appropriations (originally sponsored by Representatives Dickerson, McDonald, Moeller, Darneille, Jarrett, Simpson, Morrell, Sommers, Kenney, McDermott, Kagi, Chase and Clibborn)

AN ACT Relating to investments in cost-effective intervention programs for juvenile justice-involved youth;

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adding new sections to chapter 13.40 RCW; adding a new section to chapter 43.135 RCW; creating new sections; and providing an effective date.

Referred to Committee on Human Services & Corrections.

HB 1641 by Representatives Kretz, Blake, Ahern, Buri, Ericks, Serben, DeBolt, Schindler, Kristiansen, Condotta, Orcutt, Strow, Cox, Buck and Armstrong

AN ACT Relating to decriminalizing vessel registration violations; amending RCW 88.02.020, 88.02.090, and 88.02.110; and prescribing penalties.

Referred to Committee on Natural Resources, Ocean & Recreation.

SHB 1650 by House Committee on Criminal Justice & Corrections (originally sponsored by Representatives O'Brien, Newhouse, Lovick and Rodne)

AN ACT Relating to citations and infractions; and adding a new section to chapter 46.63 RCW.

Referred to Committee on Judiciary.

2SHB 2002 by House Committee on Appropriations (originally sponsored by Representatives Dickerson, Roberts, Kagi, Kenney and Santos)

AN ACT Relating to authorizing continuing foster care and support services to age twenty-one to youths who are in state-supervised foster care on their eighteenth birthday; amending RCW 74.13.031; and creating new sections.

Referred to Committee on Human Services & Corrections.

SHB 2333 by House Committee on Appropriations (originally sponsored by Representatives Green, Haler, Conway, Curtis, Fromhold, McDonald, Walsh, Strow, Sells, Campbell, Miloscia, Roach, P. Sullivan, Morrell, McDermott, Serben, Darneille, Appleton, Williams, Chase, Moeller, Hasegawa, Rodne, Linville, Santos, Springer, Wallace, Kenney, Cody, Ericksen, O'Brien, Wood, B. Sullivan, Simpson, Ericks, Ormsby and McCune)

AN ACT Relating to parity for home care agency workers; adding a new section to chapter 74.39A RCW; creating a new section; providing an effective date; and providing an expiration date.

Referred to Committee on Ways & Means.

2SHB 2342 by House Committee on Appropriations (originally sponsored by Representatives Moeller, Appleton, Nixon, Hunt, Curtis, Lantz, Morrell, Springer, Wallace, Fromhold, Kagi, Roberts, Cody, Ericks, Green and Ormsby)

AN ACT Relating to establishing a health care declarations registry; amending RCW 70.122.040, 71.32.080, and 70.122.051; adding new sections to chapter 70.122 RCW; and creating a new section.

Referred to Committee on Health & Long-Term Care.

SHB 2344 by House Committee on Judiciary (originally

sponsored by Representatives Kessler, Buck, Kagi, Curtis, Takko, Blake and Kenney)

AN ACT Relating to superior court judges; amending RCW 2.08.064; and creating a new section.

Referred to Committee on Judiciary.

SHB 2372 by House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives Cox, Buri, Williams, Blake, Moeller, Buck, Conway, Sump, P. Sullivan, Springer, Haler, Ericks, Kretz, Simpson, Dunn and Ormsby)

AN ACT Relating to providing a mechanism to encourage volunteers to teach hunter education programs in Washington; and amending RCW 77.32.155.

Referred to Committee on Natural Resources, Ocean & Recreation.

SHB 2376 by House Committee on Health Care (originally sponsored by Representatives Clibborn, Morrell, Murray, Wallace, Cody, Schual-Berke, Simpson, Green, Sells, Ormsby, Appleton, Fromhold, Hunt, Kenney, Kessler, Lantz, Miloscia, Moeller and Williams)

AN ACT Relating to repealing cost-sharing in medical programs; and amending RCW 74.09.055.

Referred to Committee on Health & Long-Term Care.

SHB 2382 by House Committee on Judiciary (originally sponsored by Representatives Kretz, Haler and Holmquist)

AN ACT Relating to bovine handling facilities; and adding a new section to chapter 4.24 RCW.

Referred to Committee on Judiciary.

SHB 2389 by House Committee on Transportation (originally sponsored by Representatives Kagi and Moeller)

AN ACT Relating to adding porphyria to the list of disabilities for special parking privileges; amending RCW 46.16.381; and providing an effective date.

Referred to Committee on Transportation.

SHB 2404 by House Committee on Health Care (originally sponsored by Representatives Cody and Morrell)

AN ACT Relating to retainer health care practices; amending RCW 48.44.010; and adding a new chapter to Title 48 RCW.

Referred to Committee on Health & Long-Term Care.

HB 2408 by Representatives O'Brien, Rodne, Ericks, Lovick, Anderson, Jarrett, Nixon, McDonald, Williams, Darneille, Buck, Conway, P. Sullivan, Tom, Takko, Lantz, Kilmer, Fromhold, B. Sullivan, Morrell, Simpson, Springer, Green, Miloscia, Sells, Campbell and Ormsby

AN ACT Relating to tolling the statute of limitations for felony sex offenses; amending RCW 9A.04.080; and declaring an emergency.

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Referred to Committee on Judiciary.

SHB 2420 by House Committee on State Government Operations & Accountability (originally sponsored by Representatives Kessler and Haigh)

AN ACT Relating to the office of lieutenant governor; adding a new chapter to Title 43 RCW; creating a new section; and recodifying RCW 44.04.270, 44.52.010, 44.52.020, 44.52.030, 44.52.040, 44.52.050, 44.52.060, 44.52.070, 44.52.900, 44.52.901, 43.342.010, and 43.342.020.

Referred to Committee on Government Operations & Elections.

HB 2453 by Representatives Williams, Hunt, Moeller, Chase and Morrell

AN ACT Relating to the Washington essential property insurance inspection and placement program; and amending RCW 48.58.010.

Referred to Committee on Financial Institutions, Housing & Consumer Protection.

EHB 2478 by Representatives Green, Nixon, Haigh and Hunt

AN ACT Relating to ballot measures; amending RCW 29A.32.040, 29A.56.160, 29A.72.170, and 29A.72.180; adding a new section to chapter 29A.84 RCW; repealing RCW 29A.32.050; and prescribing penalties.

Referred to Committee on Government Operations & Elections.

SHB 2481 by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Williams, Blake, Appleton, Moeller, Hasegawa, Chase, Rodne, Eickmeyer, Conway, Roberts, Hunt and Simpson)

AN ACT Relating to insuring victims of crimes; adding a new section to chapter 48.18 RCW; and creating a new section.

Referred to Committee on Financial Institutions, Housing & Consumer Protection.

SHB 2500 by House Committee on Health Care (originally sponsored by Representatives Green, Morrell, Cody, Schual-Berke, Clibborn and Conway)

AN ACT Relating to health carrier information; and adding a new section to chapter 48.43 RCW.

Referred to Committee on Health & Long-Term Care.

HB 2501 by Representatives Schual-Berke, Cody and Morrell

AN ACT Relating to clarifying that coverage for mental health services as defined in RCW 48.21.241, 48.44.341, and 48.46.291 applies to all group health plans for groups other than small groups as defined in RCW 48.43.005; amending RCW 48.21.241, 48.44.341, and 48.46.291; and declaring an emergency.

Referred to Committee on Health & Long-Term Care.

SHB 2571 by House Committee on Judiciary (originally sponsored by Representatives Morrell, Cody, Conway, Blake, Eickmeyer, Wallace, Flannigan, Roberts and Hasegawa)

AN ACT Relating to collecting health care services debt under the homestead exemption; and amending RCW 6.13.030.

Referred to Committee on Judiciary.

E2SHB 2572 by House Committee on Appropriations (originally sponsored by Representatives Morrell, Clibborn, Green, Flannigan, Eickmeyer, Conway, Dickerson, Blake, Cody, Wallace, Roberts, Appleton, Hasegawa, McCoy, Linville, Simpson, Chase, Darneille, O'Brien, Murray, B. Sullivan, Ormsby, Springer, Moeller and Kagi)

AN ACT Relating to establishment of the small employer health insurance partnership program; adding a new chapter to Title 70 RCW; and creating a new section.

Referred to Committee on Health & Long-Term Care.

SHB 2573 by House Committee on Health Care (originally sponsored by Representatives Morrell, Wallace, Clibborn, Cody, Flannigan, Simpson, Green, Ormsby, Springer, Kilmer, Moeller, Kagi and Conway)

AN ACT Relating to health information technology; amending RCW 41.05.021 and 41.05.075; and creating a new section.

Referred to Committee on Health & Long-Term Care.

E2SHB 2575 by House Committee on Appropriations (originally sponsored by Representatives Cody, Morrell and Moeller)

AN ACT Relating to establishing a state health technology assessment program; amending RCW 41.05.013; adding new sections to chapter 70.14 RCW; and creating new sections.

Referred to Committee on Health & Long-Term Care.

ESHB 2925 by House Committee on Appropriations (originally sponsored by Representatives Santos, Morrell, Bailey, Cody, Hinkle, Pettigrew, Linville and Schual-Berke)

AN ACT Relating to assisted living facility medicaid minimum occupancy percentage of fifty percent or greater; adding a new section to chapter 74.39A RCW; and creating a new section.

Referred to Committee on Health & Long-Term Care.

HB 2972 by Representatives Clibborn, Hinkle, Curtis, B. Sullivan, Cody, Moeller, P. Sullivan, Kenney, Kilmer and Jarrett

AN ACT Relating to community rates for health benefit plans; amending RCW 48.20.028, 48.44.022, and 48.46.064; adding a new section to chapter 48.20 RCW; adding a new section to chapter 48.44 RCW; and adding a new section to chapter 48.46 RCW.

Referred to Committee on Health & Long-Term Care.

SHB 2974 by House Committee on Health Care (originally sponsored by Representatives Cody, Morrell and Moeller)

AN ACT Relating to health professions discipline; amending RCW 18.130.060, 18.130.070, 18.130.050, 18.130.080, 18.130.160, and 18.130.175; adding new sections to chapter 18.130 RCW; adding a new section to chapter 43.43 RCW; repealing RCW 18.57.174 and 18.71.0193; providing an effective date; and providing an expiration date.

Referred to Committee on Health & Long-Term Care.

#### MOTION

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

#### MOTION

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

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Rockefeller moved that Gubernatorial Appointment No. 9333, Lyle Quasim, as a member of the State Board for Community and Technical Colleges, be confirmed.

Senators Rockefeller, Rasmussen, Franklin and Regala spoke in favor of the motion.

#### MOTION

On motion of Senator Regala, Senators Poulsen, Thibaudeau, Fairley and Brown were excused.

#### MOTION

On motion of Senator Schoesler, Senators McCaslin, Deccio, Parlette, Mulliken, Roach, Benton, Oke and Pflug were excused.

#### APPOINTMENT OF LYLE QUASIM

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9333, Lyle Quasim as a member of the State Board for Community and Technical Colleges.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9333, Lyle Quasim as a member of the State Board for Community and Technical Colleges and the appointment was confirmed by the following vote: Yeas, 33; Nays, 4; Absent, 1; Excused, 11.

Voting yea: Senators Benson, Berkey, Brandland, Carrell, Delvin, Eide, Esser, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schmidt, Sheldon, Shin, Spanel, Swecker, Weinstein and Zarelli - 33

Voting nay: Senators Honeyford, Mulliken, Schoesler and

Stevens - 4

Absent: Senator Doumit - 1

Excused: Senators Benton, Brown, Deccio, Fairley, McCaslin, Oke, Parlette, Pflug, Poulsen, Roach and Thibaudeau - 11

Gubernatorial Appointment No. 9333, Lyle Quasim, having received the constitutional majority was declared confirmed as a member of the State Board for Community and Technical Colleges.

#### MOTION

On motion of Senator Rockefeller, the rules were suspended, the Senate, with a single vote, considered the confirmations of Gubernatorial Appointment 9014, Judy Blinn and Gubernatorial Appointment No. 9032, Barbara Clarkson as members of the Board of Trustees, South Puget Sound Community College District No. 24 and the vote of the Senate was recorded as a separate vote for each appointment.

Senator Fraser moved that Gubernatorial Appointment No. 9014, Judy Blinn and Gubernatorial Appointment No. 9032, Barbara Clarkson as members of the Board of Trustees, South Puget Sound Community College District No. 24 be confirmed.

Senator Fraser spoke in favor of the confirmations.

The President declared the question before the Senate to be the confirmations of Gubernatorial Appointment No. 9014, Judy Blinn and Gubernatorial Appointment No. 9032, Barbara Clarkson to the Board of Trustees, South Puget Sound Community College District No. 24.

#### APPOINTMENT OF JUDY BLINN

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9014, Judy Blinn as a member of the Board of Trustees, South Puget Sound Community College District No. 24 and the appointment was confirmed by the following vote: Yeas, 40; Nays, 0; Absent, 2; Excused, 7.

Voting yea: Senators Benson, Berkey, Brandland, Carrell, Delvin, Eide, Esser, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 40

Absent: Senators Doumit and Finkbeiner - 2

Excused: Senators Benton, Brown, Deccio, Fairley, McCaslin, Poulsen and Thibaudeau - 7

#### APPOINTMENT OF BARBARA CLARKSON

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9032, Barbara Clarkson as a member of the Board of Trustees, South Puget Sound Community College District No. 24 and the appointment was confirmed by the following vote: Yeas, 40; Nays, 0; Absent, 2; Excused, 7.

Voting yea: Senators Benson, Berkey, Brandland, Carrell, Delvin, Eide, Esser, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 40

Absent: Senators Doumit and Finkbeiner - 2

Excused: Senators Benton, Brown, Deccio, Fairley, McCaslin, Poulsen and Thibaudeau - 7

Gubernatorial Appointment No. 9032, Barbara Clarkson;

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and Gubernatorial Appointment No. 9014, Judy Blinn having received the constitutional majority were declared confirmed as members of the Board of Trustees, South Puget Sound Community College District No. 24.

#### SECOND READING

SENATE BILL NO. 6416, by Senators Keiser, Hewitt, Rockefeller, Kohl-Welles, Prentice, Finkbeiner, Parlette, Sheldon, Deccio, Shin, Esser and Rasmussen

Prohibiting pyramid promotional schemes.

The measure was read the second time.

#### MOTION

On motion of Senator Keiser, the rules were suspended, Senate Bill No. 6416 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

#### MOTION

On motion of Senator Schoesler, Senator Finkbeiner was excused.

#### MOTION

On motion of Senator Regala, Senator Doumit was excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6416.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6416 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Benson, Berkey, Brandland, Carrell, Delvin, Doumit, Eide, Esser, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 43

Excused: Senators Benton, Brown, Deccio, Fairley, McCaslin and Thibaudeau - 6

SENATE BILL NO. 6416, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6382, by Senators Hewitt, Kohl-Welles, Rasmussen, Finkbeiner, Pflug and Sheldon

Authorizing the Washington horse racing commission to expend a statutorily limited amount of its operating funds for the development of the equine industry, improvement of racing facilities, and equine health research.

#### MOTIONS

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On motion of Senator Hewitt, Substitute Senate Bill No. 6382 was substituted for Senate Bill No. 6382 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hewitt, the rules were suspended, Substitute Senate Bill No. 6382 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hewitt and Kohl-Welles spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6382.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6382 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 1; Absent, 0; Excused, 5.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Carrell, Delvin, Doumit, Eide, Esser, Finkbeiner, Franklin, Fraser, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 43

Voting nay: Senator Hargrove - 1

Excused: Senators Brown, Deccio, Fairley, McCaslin and Thibaudeau - 5

SUBSTITUTE SENATE BILL NO. 6382, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6536, by Senators Jacobsen and Benton

Regarding the legislative youth advisory council.

The measure was read the second time.

#### MOTION

On motion of Senator Jacobsen, the rules were suspended, Senate Bill No. 6536 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Jacobsen, Pridemore, Franklin, Kastama, Finkbeiner, Benton and Roach spoke in favor of passage of the bill.

Senators Schoesler, Pflug and Stevens spoke against passage of the bill.

#### MOTION

Senator Regala demanded that the previous question be put.

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

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

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

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The President declared the question before the Senate to be the final passage of Senate Bill No. 6536.

## SECOND READING

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6536 and the bill passed the Senate by the following vote: Yeas, 37; Nays, 8; Absent, 0; Excused, 4.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Carrell, Delvin, Doumit, Eide, Esser, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Oke, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Shin, Spanel, Swecker, Thibaudeau and Weinstein - 37

Voting nay: Senators Hewitt, Honeyford, Mulliken, Pflug, Schoesler, Sheldon, Stevens and Zarelli - 8

Excused: Senators Brown, Deccio, Fairley and McCaslin - 4

SENATE BILL NO. 6536, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6441, by Senators Johnson and Kline

Changing the law related to judicial orders concerning distraint of personal property.

## MOTIONS

On motion of Senator Johnson, Substitute Senate Bill No. 6441 was substituted for Senate Bill No. 6441 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Johnson, the rules were suspended, Substitute Senate Bill No. 6441 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Johnson and Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6441.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6441 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Absent: Senator Prentice - 1

Excused: Senators Deccio, Fairley and McCaslin - 3

SUBSTITUTE SENATE BILL NO. 6441, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SENATE BILL NO. 6658, by Senators Thibaudeau and Deccio

Revising experience requirements for licensed mental health counselors.

The measure was read the second time.

## MOTION

On motion of Senator Thibaudeau, the rules were suspended, Senate Bill No. 6658 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Thibaudeau spoke in favor of passage of the bill.

## MOTION

On motion of Senator Regala, Senator Prentice was excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6658.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6658 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 0; Absent, 4; Excused, 4.

Voting yea: Senators Benson, Benton, Berkey, Brown, Carrell, Delvin, Eide, Esser, Finkbeiner, Franklin, Fraser, Haugen, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 41

Absent: Senators Brandland, Doumit, Hargrove and Hewitt - 4

Excused: Senators Deccio, Fairley, McCaslin and Prentice - 4

SENATE BILL NO. 6658, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6453, by Senators Mulliken, Pridemore, Fraser, Rockefeller, Franklin and Spanel

Establishing a one thousand dollar minimum monthly benefit for certain plan 1 members of the public employees' retirement system and certain plan 1 members of the teachers' retirement system.

The measure was read the second time.

## MOTION

On motion of Senator Mulliken, the rules were suspended, Senate Bill No. 6453 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Mulliken spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6453.

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## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6453 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Excused: Senators Deccio, Fairley, McCaslin and Prentice - 4

SENATE BILL NO. 6453, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6572, by Senator Hargrove

Revising the unlawful detainer process under the residential landlord-tenant act.

## MOTIONS

On motion of Senator Kline, Substitute Senate Bill No. 6572 was substituted for Senate Bill No. 6572 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kline, the rules were suspended, Substitute Senate Bill No. 6572 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline and Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6572.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6572 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 46

Excused: Senators Deccio, Fairley and McCaslin - 3

SUBSTITUTE SENATE BILL NO. 6572, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6741, by Senators Stevens, Hargrove, Carrell, Brandland and Rasmussen

Regarding the joint task force on the administration and

delivery of services to children.

The measure was read the second time.

## MOTION

Senator Stevens moved that the following amendment by Senators Stevens and Hargrove be adopted.

On page 3, line 8, strike "(l) A representative from the governor's office."

Senator Stevens spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Stevens and Hargrove on page 3, line 8 to Senate Bill No. 6741.

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

## MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Senate Bill No. 6741 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove and Stevens spoke in favor of passage of the bill.

## MOTION

On motion of Senator Schoesler, Senator Mulliken was excused.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6741.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6741 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Excused: Senators Deccio, Fairley, McCaslin and Mulliken - 4

ENGROSSED SENATE BILL NO. 6741, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6661, by Senators Rasmussen, Esser, Jacobsen, Schoesler and Kohl-Welles

Establishing the Washington beer commission.

The measure was read the second time.

## MOTION

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

On page 16, line 9 of the bill, strike all of section 31 and insert the following:

**"NEW SECTION. Sec. 31.** Section 26 of this act takes effect July 1, 2006."

On page 1, line 4 of the title, after "date;", strike the remainder of the title and insert "and providing an expiration date."

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Esser, the amendment by Senator Esser on page 16, line 9 to Senate Bill No. 6661 was withdrawn.

#### MOTION

Senator Rasmussen moved that the following striking amendment by Senators Rasmussen, Jacobsen, Schoesler and Esser be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature declares that:

(1) Marketing is a dynamic and changing part of Washington agriculture and a vital element in expanding the state economy;

(2) The sale in this state and export to other states and abroad of beer made in this state contribute substantial benefits to the economy of the state and provide a large number of jobs and sizeable tax revenues;

(3) The production of beer in this state is a new and important segment of Washington agriculture that has potential for greater contribution to the economy of the state if it undergoes continued development; and

(4) The general welfare of the people of this state will be served by continued development of the activities of the production of beer, that will improve the tax bases of local communities where agricultural land and processing facilities are located, and reduce the need for state and federal funding of local services. The industries are therefore affected with the public interest.

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

(1) "Affected producer" means any producer who is subject to this chapter.

(2) "Beer" means any malt beverage or malt liquor as the terms are defined in chapter 66.04 RCW.

(3) "Commission" means the Washington beer commission.

(4) "Fiscal year" means the twelve-month period beginning with January 1st of any year and ending December 31st.

(5) "Producer" means any person or other entity licensed under Title 66 RCW to produce beer within Washington state and who produces less than one hundred thousand barrels of beer annually per location.

(6) "Referendum" means a vote by affected producers that is conducted by secret ballot.

**NEW SECTION. Sec. 3.** The history, economy, culture, and future of Washington state's agriculture involve the beer industry. In order to develop and promote beer as part of an existing comprehensive scheme to regulate those products, the legislature declares that:

(1) It is vital to the continued economic well-being of the citizens of this state and their general welfare that beer produced in Washington state be properly promoted;

(2) It is in the overriding public interest that support for the Washington beer industry be clearly expressed and that beer be promoted individually, and as part of a comprehensive industry to:

(a) Enhance the reputation and image of Washington state's agricultural industry;

(b) Protect the public by educating the public in reference to the quality, care, and methods used in the production of beer;

(c) Increase the knowledge of the qualities and value of Washington's beer; and

(d) Support and engage in programs or activities that benefit the production, handling, processing, marketing, and uses of beer;

(3) This chapter is enacted in the exercise of the police powers of this state to protect the health, peace, safety, and general welfare of the people of this state; and

(4) The production and marketing of beer is a highly regulated industry and this chapter and the rules adopted under it are only one aspect of the regulated industry. Other laws applicable to the beer industry include:

(a) The organic food products act, chapter 15.86 RCW;

(b) The wholesale distributors and suppliers of malt beverages, chapter 19.126 RCW;

(c) Weights and measures, chapter 19.94 RCW;

(d) Title 66 RCW, alcoholic beverage control;

(e) Title 69 RCW, food, drugs, cosmetics, and poisons;

(f) 21 C.F.R. as it relates to general manufacturing practices, food labeling, food standards, food additives, and pesticide tolerances;

(g) Chapter 69.07 RCW, Washington food processing act;

(h) 27 U.S.C. Secs. 201 through 211, 213 through 219a, and 122A;

(i) 27 C.F.R. Parts 1, 6, 9, 10, 12, 16, 240, 251, and 252; and

(j) Rules under Title 314 WAC.

**NEW SECTION. Sec. 4.** (1) Subject to the referendum conducted under section 5 of this act, there is created an agricultural commodity commission, to be known as the Washington beer commission. The commission shall be comprised of seven voting members; six members shall be producers and one voting member shall be the director.

(2) Five voting members of the commission constitute a quorum for the transaction of any commission business.

(3) Each producer member shall be a citizen and resident of this state and over the age of twenty-one. Each producer member must be engaged in producing beer, and must, during his or her term of office, derive a substantial portion of income from the production of beer, or have a substantial investment in the production of beer as an owner, lessee, partner, or the manager or executive officer of such a corporation. No more than one board member may be part of the same person as defined by RCW 15.04.010. These qualifications apply throughout each member's term of office but do not apply to the director.

(4) The producer members shall serve three-year terms. Of the initial voting members, two members shall be appointed for a one-year term, two members shall be appointed for a two-year term, and two members shall be appointed for a three-year term.

**NEW SECTION. Sec. 5.** (1) Upon receipt of a petition containing the signatures of five beer producers from a statewide Washington state craft brewing trade association or other affected producers to implement this chapter and to determine producer participation in the commission and assessment under this chapter, the director shall:

(a) Conduct a referendum of beer producers. The requirements of assent or approval of the referendum are met if:

(i) At least fifty-one percent by numbers of affected producers participating in the referendum vote affirmatively; and

(ii) Thirty percent of the affected producers and thirty percent of the production have been represented in the referendum to determine assent or approval of participation and assessment. The referendum shall be conducted within sixty days of receipt of the petition; and

(b) Establish a list of beer producers from information provided by the petitioners, by obtaining information on beer producers from applicable producer organizations or associations or other sources identified as maintaining the information. In establishing a current list of beer producers and their individual production, the director shall use the beer producer's name, mailing address, and production by the producer in the preceding fiscal year. Information on each producer shall be mailed to each beer producer on record with



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the director for verification. All corrections shall be filed with the director within twenty days from the date of mailing. The list of affected producers shall be kept in a file by the director. The list shall be certified as a true representation of the referendum mailing list. Inadvertent failure to notify an affected producer does not invalidate a proceeding conducted under this chapter. The director shall provide the commission the list of affected producers after assent in a referendum as provided in this section.

(2) If the director determines that the requisite assent has been given in the referendum conducted under subsection (1) of this section, the director shall:

(a) Within sixty days after assent of the referendum held, appoint the members of the commission; and

(b) Direct the commission to put into force the assessment as provided for in section 14 of this act.

(3) If the director determines that the requisite assent has not been given in the referendum conducted under subsection (1) of this section, the director shall take no further action to implement or enforce this chapter.

(4) Upon completion of the referendum conducted under subsection (1) of this section, the department shall tally the results of the vote and provide the results to affected producers. If an affected producer disputes the results of a vote, that producer within sixty days from the announced results, shall provide in writing a statement of why the vote is disputed and request a recount. Once the vote is tallied and distributed, all disputes are resolved, and all matters in a vote are finalized, the individual ballots may be destroyed.

(5) Before conducting the referendum provided for in subsection (1) of this section, the director may require the petitioners to deposit with him or her an amount of money as the director deems necessary to defray the expenses of conducting the referendum. The director shall provide the petitioners an estimate of expenses that may be incurred to conduct a referendum before any service takes place. Petitioners shall deposit funds with the director to pay for expenses incurred by the department. The commission shall reimburse petitioners the amount paid to the department when funds become available. However, if for any reason the referendum process is discontinued, the petitioners shall reimburse the department for expenses incurred by the department up until the time the process is discontinued.

(6) The director is not required to hold a referendum under subsection (1) of this section more than once in any twelve-month period.

**NEW SECTION. Sec. 6.** (1) The director shall appoint the producer members of the commission. In making appointments, no later than ninety days before an expiration of a commission member's term, the director shall call for recommendations for commission member positions, and the director shall take into consideration recommendations made by a statewide Washington state craft brewing trade association or other affected producers. In appointing persons to the commission, the director shall seek a balanced representation on the commission that reflects the composition of the beer producers throughout the state on the basis of beer produced and geographic location. Information on beer production by geographic location shall be provided by the commission upon the director's request.

(2) If a position on the commission becomes vacant due to resignation, disqualification, death, or for any other reason, the commission shall notify the director and the unexpired term shall immediately be filled by appointment by the director.

(3) Each member or employee of the commission shall be reimbursed for actual travel expenses incurred in carrying out this chapter as defined by the commission in rule. Otherwise if not defined in rule, reimbursement for travel expenses shall be at the rates allowed by RCW 43.03.050 and 43.03.060.

**NEW SECTION. Sec. 7.** Obligations incurred by the commission and any other liabilities or claims against the commission shall be enforced only against the assets of the commission and, except to the extent of such assets, no liability for the debts or actions of the commission exists against either the state of Washington or any subdivision or instrumentality

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thereof or against any member, employee, or agent of the commission or the state of Washington in his or her individual capacity. Except as otherwise provided in this chapter, neither the commission members, nor its employees, may be held individually responsible for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person, or employee, except for their own individual acts of dishonesty or crime. No person or employee may be held individually responsible for any act or omission of any other commission members. The liability of the commission members shall be several and not joint, and no member is liable for the default of any other member. This provision confirms that commission members have been and continue to be, state officers or volunteers for purposes of RCW 4.92.075 and are entitled to the defenses, indemnifications, limitations of liability, and other protections and benefits of chapter 4.92 RCW.

**NEW SECTION. Sec. 8.** The commission shall:

(1) Elect a chair and officers. The officers must include a treasurer who is responsible for all receipts and disbursements by the commission and the faithful discharge of whose duties shall be guaranteed by a bond at the sole expense of the commission. The commission must adopt rules for its own governance that provide for the holding of an annual meeting for the election of officers and the transaction of other business and for other meetings the commission may direct;

(2) Do all things reasonably necessary to effect the purposes of this chapter. However, the commission has no rule-making power except as provided in this chapter;

(3) Employ and discharge managers, secretaries, agents, attorneys, and employees and engage the services of independent contractors;

(4) Retain, as necessary, the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of the attorney general;

(5) Receive donations of beer from producers for promotional purposes under subsections (6) and (7) of this section and for fund-raising purposes under subsection (8) of this section. Donations of beer for promotional purposes may only be disseminated without charge;

(6) Engage directly or indirectly in the promotion of Washington beer, including, without limitation, the acquisition in any lawful manner and the dissemination without charge of beer. This dissemination is not deemed a sale for any purpose and the commission is not deemed a producer, supplier, or manufacturer, or the clerk, servant, or agent of a producer, supplier, distributor, or manufacturer. This dissemination without charge shall be for agricultural development or trade promotion, and not for fund-raising purposes under subsection (8) of this section. Dissemination for promotional purposes may include promotional hosting and must in the good faith judgment of the commission be in the aid of the marketing, advertising, sale of beer, or of research related to such marketing, advertising, or sale;

(7) Promote Washington beer by conducting unique beer tastings without charge;

(8) Fund the Washington beer commission through sponsorship of up to twelve beer festivals annually at which beer may be sold to festival participants. For this purpose, the commission would qualify for issue of a special occasion license as an exception to WAC 314-05-020 but must comply with laws under Title 66 RCW and rules adopted by the liquor control board under which such events may be conducted. If Substitute Senate Bill No. 6838, promoting Washington's craft beer industry by conducting beer festivals, is enacted during the 2006 regular legislative session, the commission may not conduct beer festivals before July 1, 2007;

(9) Participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, regulation, distribution, sale, or use of beer including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission;

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(10) Acquire and transfer personal and real property, establish offices, incur expenses, and enter into contracts, including contracts for the creation and printing of promotional literature. The contracts are not subject to chapter 43.78 RCW, and are cancelable by the commission unless performed under conditions of employment that substantially conform to the laws of this state and the rules of the department of labor and industries. The commission may create debt and other liabilities that are reasonable for proper discharge of its duties under this chapter;

(11) Maintain accounts with one or more qualified public depositories as the commission may direct, for the deposit of money, and expend money for purposes authorized by this chapter by drafts made by the commission upon such institutions or by other means;

(12) Cause to be kept and annually closed, in accordance with generally accepted accounting principles, accurate records of all receipts, disbursements, and other financial transactions, available for audit by the state auditor;

(13) Create and maintain a list of producers and disseminate information among and solicit the opinions of producers with respect to the discharge of the duties of the commission, directly or by arrangement with trade associations or other instrumentalities;

(14) Employ, designate as an agent, act in concert with, and enter into contracts with any person, council, commission, or other entity to promote the general welfare of the beer industry and particularly to assist in the sale and distribution of Washington beer in domestic and foreign commerce. The commission shall expend money necessary or advisable for this purpose and to pay its proportionate share of the cost of any program providing direct or indirect assistance to the sale and distribution of Washington beer in domestic or foreign commerce, employing and paying for vendors of professional services of all kinds;

(15) Sue and be sued as a commission, without individual liability for acts of the commission within the scope of the powers conferred upon it by this chapter; and

(16) Serve as liaison with the liquor control board on behalf of the commission and not for any individual producer.

**NEW SECTION. Sec. 9.** (1) The commission shall develop and submit to the director for approval any plans, programs, and projects concerning the following:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for advertising, promotion, and education programs related to beer; and

(b) The establishment and effectuation of market research projects, market development projects, or both to the end that the marketing of beer may be encouraged, expanded, improved, or made more efficient.

(2) The director shall review the commission's advertising or promotion program to ensure that no false claims are being made concerning beer.

(3) The commission, before the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget on a fiscal period basis.

(4) The director shall strive to review and make a determination of all submissions described in this section in a timely manner.

**NEW SECTION. Sec. 10.** The commission exists primarily for the benefit of the people of the state of Washington and its economy. The legislature hereby charges the commission, with oversight by the director, to speak on behalf of the Washington state government with regard to the marketing and promotion of Washington produced beer.

**NEW SECTION. Sec. 11.** The commission may create, provide for, and conduct a comprehensive and extensive research, promotional, and educational campaign as sales and market conditions reasonably require. It shall investigate and ascertain the needs of producers, conditions of markets, and degree of public awareness of products, and take into account this information in the discharge of its duties under this chapter.

**NEW SECTION. Sec. 12.** The commission shall adopt as major objectives of its research, promotional, and educational campaign goals that serve the needs of producers. The goals may include efforts to:

(1) Establish Washington beer as a major factor in markets everywhere;

(2) Promote Washington breweries as tourist attractions;

(3) Encourage favorable reporting of Washington beer and breweries in the press throughout the world;

(4) Establish Washington beer in markets everywhere as a major source of premium beer;

(5) Encourage favorable legislative and regulatory treatment of Washington beer in markets everywhere;

(6) Encourage promotion of Washington agriculture related to beer production, specifically hops, malting barley, and wheat grown in the state; and

(7) Foster economic conditions favorable to investment in the production of Washington beer.

**NEW SECTION. Sec. 13.** (1) The commission shall prepare a list of all affected producers from information available from the liquor control board, the department, or the producers' association. This list must contain the names and addresses of affected producers within this state and the amount, by barrelage, of beer produced during the period designated by the commission. A qualified person may, at any time, have his or her name placed upon the list by delivering or mailing the information to the commission. This list shall be corrected and brought up-to-date in accordance with evidence and information available to the commission by December 31st of each year. For the purposes of giving notice and holding referendums, the list updated before the date for issuing notices or ballots is the list of all producers entitled to notice, to assent or dissent, or to vote. Inadvertent failure to notify a producer does not invalidate a proceeding conducted under this chapter.

(2) It is the responsibility of affected producers to ensure that their correct address is filed with the commission. It is also the responsibility of affected producers to submit production data to the commission as prescribed by this chapter.

(3) The commission shall develop a reporting system to document that the affected producers in this state are reporting quantities of beer produced and are paying the assessment as provided in section 14 of this act.

**NEW SECTION. Sec. 14.** (1) Pursuant to referendum in accordance with section 5 of this act, there is levied, and the commission shall collect, upon beer produced by an affected producer, an annual assessment of ten cents per barrel of beer produced, up to ten thousand barrels per location.

(2) The commission shall adopt rules prescribing the time, place, and method for payment and collection of this assessment and provide for the collection of assessments from affected producers who ship directly out-of-state.

(3) The commission may reduce the assessment per affected producer based upon in-kind contributions to the commission.

**NEW SECTION. Sec. 15.** The commission shall deposit money collected under section 14 of this act in a separate account in the name of the commission in any bank that is a state depository. All expenditures and disbursements made from this account under this chapter may be made without the necessity of a specific legislative appropriation. RCW 43.01.050 does not apply to this account or to the money received, collected, or expended as provided in this chapter.

**NEW SECTION. Sec. 16.** An assessment levied in an amount determined by the commission under section 14 of this act constitutes a personal debt of every person assessed or who otherwise owes the assessment, and the assessment is due and payable to the commission when payment is called for by the commission. If a producer fails to pay the commission the full amount of the assessment by the date due, the commission may add to the unpaid assessment an amount not exceeding ten percent of the assessment to defray the cost of enforcing its collection. If the person fails to pay an assessment, the commission may bring a civil action for collection against the person or persons in a court of competent jurisdiction. The action shall be tried and judgment rendered as in any other cause of action for a debt due and payable.

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**NEW SECTION. Sec. 17.** (1) Under RCW 42.56.380, certain agricultural business records, commission records, and department of agriculture records relating to the commission and producers of agricultural commodities are exempt from public disclosure.

(2) Financial and commercial information and records submitted to either the department or the commission for the purpose of administering this chapter may be shared between the department and the commission. They may also be used, if required, in any suit or administrative hearing involving this chapter.

(3) This section does not prohibit:

(a) The issuance of general statements based upon the reports of persons subject to this chapter as long as the statements do not identify the information furnished by any person; or

(b) The publication by the director or the commission of the name of any person violating this chapter and a statement of the manner of the violation by that person.

**NEW SECTION. Sec. 18.** (1) All costs incurred by the department, including the adoption of rules and other actions necessary to carry out this chapter, shall be reimbursed by the commission.

(2) The director may provide by rule for a method to fund staff support for all commodity boards or commissions in accordance with RCW 43.23.033 if a position is not directly funded by the legislature and costs are related to the specific activity undertaken on behalf of an individual commodity board or commission. The commission shall provide funds to the department according to the rules adopted by the director.

**NEW SECTION. Sec. 19.** County and state law enforcement officers, the liquor control board and its enforcement agents, and employees of the department shall enforce this chapter.

**NEW SECTION. Sec. 20.** (1) Any prosecution brought under this chapter may be instituted in any county in which the defendant or any defendant resides, or in which the violation was committed, or in which the defendant or any defendant has his or her principal place of business.

(2) The superior courts may enforce this chapter and the rules and regulations of the commission issued hereunder, and may prevent and restrain violations thereof.

**NEW SECTION. Sec. 21.** This act shall be liberally construed to effectuate its purposes.

**Sec. 22.** RCW 66.44.800 and 1987 c 452 s 17 are each amended to read as follows:

(1) Nothing contained in chapter 15.88 RCW shall affect the compliance by the Washington wine commission with this chapter.

(2) Nothing contained in chapter 15.-- RCW (sections 1 through 21 of this act) shall affect the compliance by the Washington beer commission with this chapter.

**NEW SECTION. Sec. 23.** A new section is added to chapter 66.12 RCW to read as follows:

The Washington beer commission created under section 4 of this act may purchase or receive donations of beer or malt beverages from any brewery, in any state, or in any country and may use such beer or malt beverages for any promotional purposes as outlined in section 8 of this act. Beer and malt beverages that are furnished to the commission under this section that are used within the state are subject to the taxes imposed under RCW 66.24.290. No license, permit, or bond is required of the Washington beer commission under this title for promotional activities conducted under chapter 15.-- RCW (sections 1 through 21 of this act).

**Sec. 24.** RCW 15.04.200 and 1987 c 452 s 16 are each amended to read as follows:

(1) Under the authority of Article VIII of the state Constitution as amended, agricultural commodity commission expenditures for agricultural development or trade promotion and promotional hosting by an agricultural commodities commission under chapters 15.24, 15.28, 15.44, 15.65, 15.66, 15.88, 15.-- (sections 1 through 21 of this act), and 16.67 RCW shall be pursuant to specific budget items as approved by the

agricultural commodity commission at the annual public hearings on the agricultural commodity commission budget.

(2) Agricultural commodity commissions shall adopt rules governing promotional hosting expenditures by agricultural commodity commission employees, agents or commissioners. The rules shall identify officials and agents authorized to make expenditures and the objectives of the expenditures. Individual agricultural commodity commission commissioners shall make promotional hosting expenditures, or seek reimbursements for these expenditures, only in those instances where the expenditures have been approved by the agricultural commodity commission. All payments and reimbursements shall be identified and supported on vouchers.

(3) Agricultural commodity commissions shall be exempt from the requirements of RCW 43.01.090 and 43.19.500 and chapter 43.82 RCW.

**Sec. 25.** RCW 42.17.31907 and 2002 c 313 s 66 are each amended to read as follows:

The following agricultural business records and commodity board and commission records are exempt from the disclosure requirements of this chapter:

(1) Production or sales records required to determine assessment levels and actual assessment payments to commodity boards and commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, 15.-- (sections 1 through 21 of this act), and 16.67 RCW or required by the department of agriculture to administer these chapters or the department's programs;

(2) Consignment information contained on phytosanitary certificates issued by the department of agriculture under chapters 15.13, 15.49, and 15.17 RCW or federal phytosanitary certificates issued under 7 C.F.R. 353 through cooperative agreements with the animal and plant health inspection service, United States department of agriculture, or on applications for phytosanitary certification required by the department of agriculture; and

(3) Financial and commercial information and records supplied by persons (a) to the department of agriculture for the purpose of conducting a referendum for the potential establishment of a commodity board or commission; (b) to the department of agriculture or commodity boards or commissions formed under chapter 15.24, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, 15.-- (sections 1 through 21 of this act), or 16.67 RCW with respect to domestic or export marketing activities or individual producer's production information.

**Sec. 26.** RCW 42.56.380 and 2005 c 274 s 418 are each amended to read as follows:

The following information relating to agriculture and livestock is exempt from disclosure under this chapter:

(1) Business-related information under RCW 15.86.110;

(2) Information provided under RCW 15.54.362;

(3) Production or sales records required to determine assessment levels and actual assessment payments to commodity boards and commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, 15.-- (sections 1 through 21 of this act), and 16.67 RCW or required by the department of agriculture to administer these chapters or the department's programs;

(4) Consignment information contained on phytosanitary certificates issued by the department of agriculture under chapters 15.13, 15.49, and 15.17 RCW or federal phytosanitary certificates issued under 7 C.F.R. 353 through cooperative agreements with the animal and plant health inspection service, United States department of agriculture, or on applications for phytosanitary certification required by the department of agriculture;

(5) Financial and commercial information and records supplied by persons (a) to the department of agriculture for the purpose of conducting a referendum for the potential establishment of a commodity board or commission; or (b) to the department of agriculture or commodity boards or commissions formed under chapter 15.24, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, 15.-- (sections 1 through 21 of this act), or 16.67 RCW with respect to domestic or export

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marketing activities or individual producer's production information;

(6) Except under RCW 15.19.080, information obtained regarding the purchases, sales, or production of an individual American ginseng grower or dealer;

(7) Information that can be identified to a particular business and that is collected under section 3(1), chapter 235, Laws of 2002; and

(8) Financial statements provided under RCW 16.65.030(1)(d).

**Sec. 27.** RCW 43.23.033 and 2002 c 313 s 78 are each amended to read as follows:

(1) The director may provide by rule for a method to fund staff support for all commodity boards and commissions if a provision is not directly funded by the legislature.

(2) Staff support funded under this section and RCW 15.65.047(1)(c), 15.66.055(3), 15.24.215, 15.26.265, 15.28.320, 15.44.190, 15.88.180, section 18 of this act, and 16.67.190 shall be limited to one-half full-time equivalent employee for all commodity boards and commissions.

**NEW SECTION. Sec. 28.** 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. 29.** Sections 1 through 21 of this act constitute a new chapter in Title 15 RCW.

**NEW SECTION. Sec. 30.** Section 25 of this act expires July 1, 2006.

**NEW SECTION. Sec. 31.** Section 26 of this act takes effect July 1, 2006."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Rasmussen, Jacobsen, Schoesler and Esser to Senate Bill No. 6661.

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

#### MOTION

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

On page 1, line 1 of the title, after "commission;" strike the remainder of the title and insert "amending RCW 66.44.800, 15.04.200, 42.17.31907, 42.56.380, and 43.23.033; adding a new section to chapter 66.12 RCW; adding a new chapter to Title 15 RCW; providing an effective date; and providing an expiration date."

#### MOTION

On motion of Senator Rasmussen, the rules were suspended, Engrossed Senate Bill No. 6661 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Schoesler, Jacobsen, Rasmussen and Hewitt spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6661.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6661 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Carrell, Delvin, Doumit, Eide, Esser, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice,

Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Absent: Senator Brown - 1

Excused: Senators Deccio, Fairley and McCaslin - 3

ENGROSSED SENATE BILL NO. 6661, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6806, by Senators Esser, Hargrove, Brandland, Johnson and Rasmussen

Establishing the domestic violence hope card study committee.

#### MOTIONS

On motion of Senator Esser, Substitute Senate Bill No. 6806 was substituted for Senate Bill No. 6806 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Esser, the rules were suspended, Substitute Senate Bill No. 6806 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Esser spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Regala, Senator Brown was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6806.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6806 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Carrell, Delvin, Doumit, Eide, Esser, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Excused: Senators Brown, Deccio, Fairley and McCaslin - 4

SUBSTITUTE SENATE BILL NO. 6806, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

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

#### MESSAGE FROM THE HOUSE

February 9, 2006

MR. PRESIDENT:

The House has passed the following bill(s):

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ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
NO. 2489,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
NO. 2582,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
NO. 2630  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
NO. 2785

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

February 9, 2006

MR. PRESIDENT:

The House has passed the following bill(s):  
SUBSTITUTE HOUSE BILL NO. 2414  
HOUSE BILL NO. 2597  
SUBSTITUTE HOUSE BILL NO. 2836  
SUBSTITUTE HOUSE BILL NO. 2973  
SUBSTITUTE HOUSE BILL NO. 2976,  
SUBSTITUTE HOUSE BILL NO. 2989  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2998,  
HOUSE BILL NO. 3028,  
SUBSTITUTE HOUSE BILL NO. 3087

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

February 9, 2006

MR. PRESIDENT:

The House has passed the following bill(s):  
SUBSTITUTE HOUSE BILL NO. 1986,  
SUBSTITUTE HOUSE BILL NO. 2985,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
NO. 3098,  
SUBSTITUTE HOUSE BILL NO. 3113,  
SECOND SUBSTITUTE HOUSE BILL NO. 3115,  
HOUSE BILL NO. 3139  
SUBSTITUTE HOUSE BILL NO. 3182,  
HOUSE BILL NO. 3215

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

February 9, 2006

MR. PRESIDENT:

The House has passed the following bill(s):  
ENGROSSED THIRD SUBSTITUTE HOUSE BILL NO.  
1484

and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

At 10:43 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:53 a.m. by President Owen.

MOTION

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

MOTION

Senator McAuliffe moved adoption of the following resolution:

SENATE RESOLUTION  
8708

By Senators McAuliffe, Rockefeller and Eide

WHEREAS, Earl Hale is retiring from the State Board for Community and Technical Colleges on January 20, 2006, after thirty-five years of total service and the last nineteen years as the Executive Director; and

WHEREAS, Earl Hale has helped the State Board to ensure that the two-year college system maintains an open door to public education for nearly half a million Washington residents every year; and

WHEREAS, Earl Hale has articulately and effectively communicated the system's core mission and values to leaders across the state, including business, state government, faculty unions, the K-12 system, and four-year colleges and universities; and

WHEREAS, Earl Hale has overseen tremendous growth of the two-year college system with the addition of the technical colleges into the system in 1991, and two additional community colleges since 1994; and

WHEREAS, Earl Hale has been instrumental in bringing the community and technical college communities together, to support each other, and to work with the universities and colleges to provide access to a comprehensive education system for all students in the State of Washington;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate hereby commend Earl Hale for his tireless efforts on behalf of the two-year college system and his deep commitment to serving the citizens of Washington over the last thirty-five years; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Earl Hale.

Senators McAuliffe, Shin, Kohl-Welles, Benson, Rockefeller, Eide, Berkey, Fraser and Morton spoke in favor of adoption of the resolution.

Senator Jacobsen spoke against adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8708.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Earl Hale, Former Executive Director of the State Board for Community and Technical Colleges, and his family and friends who were seated in the gallery.

MOTION

At 12:08 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 2:15 p.m. by President Pro Tempore.

MOTION

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

## MOTION

On motion of Senator Rockefeller, the rules were suspended, the Senate, with a single vote, considered the confirmations of Gubernatorial Appointment 9300, Alice Tawresey and Gubernatorial Appointment No. 9343, Pete Crane as members of the Board of Trustees, Olympic Community College District No. 3 and the vote of the Senate was recorded as a separate vote for each appointment.

Senator Rockefeller moved that Gubernatorial Appointment No. 9300, Alice Tawresey and Gubernatorial Appointment No. 9343, Pete Crane as members of the Board of Trustees, Olympic Community College District No. 3 be confirmed.

Senator Rockefeller spoke in favor of the confirmations.

The President declared the question before the Senate to be the confirmations of Gubernatorial Appointment No. 9300, Alice Tawresey and Gubernatorial Appointment No. 9343, Pete Crane to the Board of Trustees, Olympic Community College District No. 3.

## APPOINTMENT OF ALICE TAWRESEY

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9300, Alice Tawresey as a member of the Board of Trustees, Olympic Community College District No. 3 and the appointment was confirmed by the following vote: Yeas, 43; Nays, 0; Absent, 2; Excused, 4.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McCaslin, Morton, Mulliken, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 43

Absent: Senators Finkbeiner and McAuliffe - 2

Excused: Senators Deccio, Haugen, Oke and Poulsen - 4

## MOTION

On motion of Senator Schoesler, Senators Hewitt, Oke and Parlette were excused.

## MOTION

On motion of Senator Regala, Senators Haugen and Poulsen were excused.

## APPOINTMENT OF PETE CRANE

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9343, Pete Crane as a member of the Board of Trustees, Olympic Community College District No. 3 and the appointment was confirmed by the following vote: Yeas, 43; Nays, 0; Absent, 2; Excused, 4.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Hewitt, Honeyford, Jacobsen, Johnson,

Kastama, Keiser, Kline, Kohl-Welles, McCaslin, Morton, Mulliken, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 43

Absent: Senators Finkbeiner and McAuliffe - 2

Excused: Senators Deccio, Haugen, Oke and Poulsen - 4

Gubernatorial Appointment No. 9343, Pete Crane; and Gubernatorial Appointment No. 9300, Alice Tawresey having received the constitutional majority were declared confirmed as a member of the Board of Trustees, Olympic Community College District No. 3.

## MOTION

On motion of Senator Hargrove, the rules were suspended, the Senate, with a single vote, considered the confirmations of Gubernatorial Appointment 9028, Rebecca Chaffee, Gubernatorial Appointment No. 9183, Fawn Sharp-Malvini, Gubernatorial Appointment No. 9208, John Warring and Gubernatorial Appointment No. 9337, Carol Carlstad as members of the Board of Trustees, Grays Harbor Community College District No. 2 and the vote of the Senate was recorded as a separate vote for each appointment.

Senator Hargrove moved that Gubernatorial Appointment No. 9028, Rebecca Chaffee, Gubernatorial Appointment No. 9183, Fawn Sharp-Malvini, Gubernatorial Appointment No. 9208, John Warring and Gubernatorial Appointment No. 9337, Carol Carlstad as members of the Board of Trustees, Grays Harbor Community College District No. 2 be confirmed.

Senator Hargrove spoke in favor of the confirmations.

The President Pro Tempore declared the question before the Senate to be the confirmations of Gubernatorial Appointment No. 9028, Rebecca Chaffee, Gubernatorial Appointment No. 9183, Fawn Sharp-Malvini, Gubernatorial Appointment No. 9208, John Warring and Gubernatorial Appointment No. 9337, Carol Carlstad to the Board of Trustees, Grays Harbor Community College District No. 2.

## MOTION

On motion of Senator Schoesler, Senators Hewitt, Brandland, Schmidt, Finkbeiner and Mulliken were excused.

## MOTION

On motion of Senator Regala, Senator McAuliffe was excused.

## APPOINTMENT OF REBECCA CHAFFEE

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9028, Rebecca Chaffee as a member of the Board of Trustees, Grays Harbor Community College District No. 2 and the appointment was confirmed by the following vote: Yeas, 39; Nays, 0; Absent, 1; Excused, 9.

Voting yea: Senators Benson, Benton, Berkey, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McCaslin, Morton, Mulliken, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau and Weinstein - 39

Absent: Senator Zarelli - 1

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Excused: Senators Brandland, Deccio, Finkbeiner, Haugen, Hewitt, McAuliffe, Oke, Poulsen and Schmidt - 9

#### APPOINTMENT OF FAWN SHARP-MALVINI

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9183, Fawn Sharp-Malvini as a member of the Board of Trustees, Grays Harbor Community College District No. 2 and the appointment was confirmed by the following vote: Yeas, 39; Nays, 0; Absent, 1; Excused, 9.

Voting yea: Senators Benson, Benton, Berkey, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McCaslin, Morton, Mulliken, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau and Weinstein - 39

Absent: Senator Zarelli - 1

Excused: Senators Brandland, Deccio, Finkbeiner, Haugen, Hewitt, McAuliffe, Oke, Poulsen and Schmidt - 9

#### APPOINTMENT OF JOHN WARRING

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9208, John Warring as a member of the Board of Trustees, Grays and the appointment was confirmed by the following vote: Yeas, 39; Nays, 0; Absent, 1; Excused, 9.

Voting yea: Senators Benson, Benton, Berkey, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McCaslin, Morton, Mulliken, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau and Weinstein - 39

Absent: Senator Zarelli - 1

Excused: Senators Brandland, Deccio, Finkbeiner, Haugen, Hewitt, McAuliffe, Oke, Poulsen and Schmidt - 9

#### APPOINTMENT OF CAROL CARLSTAD

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9337, Carol Carlstad as a member of the Board of Trustees, Grays Harbor Community College District No. 2 and the appointment was confirmed by the following vote: Yeas, 39; Nays, 0; Absent, 1; Excused, 9.

Voting yea: Senators Benson, Benton, Berkey, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McCaslin, Morton, Mulliken, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau and Weinstein - 39

Absent: Senator Zarelli - 1

Excused: Senators Brandland, Deccio, Finkbeiner, Haugen, Hewitt, McAuliffe, Oke, Poulsen and Schmidt - 9

Gubernatorial Appointment No. 9337, Carol Carlstad; Gubernatorial Appointment No. 9028, Rebecca Chaffee; Gubernatorial Appointment No. 9183, Fawn Sharp-Malvini and Gubernatorial Appointment No. 9208, John Warring having received the constitutional majority were declared confirmed as a member of the Board of Trustees, Grays Harbor Community College District No. 2.

#### MOTION

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

#### THIRD READING

SUBSTITUTE SENATE BILL NO. 5838, by Senate Committee on Health & Long-Term Care (originally sponsored by Senators Kastama, Benson, Poulsen, Brandland, Deccio, Keiser, Thibaudeau, Franklin and Rasmussen).

Limiting the substitution of preferred drugs in hepatitis C treatment.

The bill was read on Third Reading.

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

Senator Parlette spoke against passage of the bill.

#### MOTION

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

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5838.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5838 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 4; Absent, 1; Excused, 10.

Voting yea: Senators Benson, Benton, Berkey, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Johnson, Kastama, Keiser, Kline, McCaslin, Morton, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau and Weinstein - 34

Voting nay: Senators Honeyford, Mulliken, Parlette and Schoesler - 4

Absent: Senator Zarelli - 1

Excused: Senators Brandland, Brown, Deccio, Finkbeiner, Hewitt, Kohl-Welles, McAuliffe, Oke, Poulsen and Schmidt - 10

SUBSTITUTE SENATE BILL NO. 5838, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

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

Vice President Pro Tempore assumed the chair.

#### SECOND READING

SENATE BILL NO. 6196, by Senators Franklin, Regala, Keiser, Eide, Rockefeller, Prentice, Thibaudeau, Jacobsen, Fairley, McAuliffe, Fraser, Sheldon, Brown, Spanel, Kline, Kohl-Welles, Shin and Esser

Including a member of the American Indian health commission for Washington state on the state board of health. Revised for 1st Substitute: Including a health official from a federally recognized tribe on the state board of health.

#### MOTIONS

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On motion of Senator Keiser, Substitute Senate Bill No. 6196 was substituted for Senate Bill No. 6196 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Keiser, the rules were suspended, Substitute Senate Bill No. 6196 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Franklin, Thibaudeau and Parlette spoke in favor of passage of the bill.

The Vice President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6196.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6196 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benson, Benton, Berkey, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Excused: Senators Brandland, Brown, Deccio and Oke - 4

SUBSTITUTE SENATE BILL NO. 6196, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

President Pro Tempore assumed the chair.

#### MOTION

At 3:02 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 4:11 p.m. by President Pro Tempore.

#### SECOND READING

SENATE BILL NO. 6618, by Senators McAuliffe and Schmidt

Revising the high school assessment system. Revised for 1st Substitute: Requiring a study to explore options to augment the current educational assessment system.

#### MOTIONS

On motion of Senator McAuliffe, Substitute Senate Bill No. 6618 was substituted for Senate Bill No. 6618 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator McAuliffe, the rules were suspended, Substitute Senate Bill No. 6618 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

#### MOTION

On motion of Senator Weinstein, Senator Jacobsen was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6618.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6618 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Excused: Senators Deccio and Jacobsen - 2

SUBSTITUTE SENATE BILL NO. 6618, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6475, by Senators McAuliffe, Schmidt, Eide, Weinstein, Haugen, Berkey, Kastama, Shin, Kohl-Welles and Rasmussen

Authorizing alternative methods of assessment and appeal processes for the certificate of academic achievement.

#### MOTION

On motion of Senator McAuliffe, Substitute Senate Bill No. 6475 was substituted for Senate Bill No. 6475 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

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

Strike everything after the enacting clause and insert the following:

**NEW SECTION, Sec. 1** A new section is added to chapter 28A.655 RCW to read as follows:

(1) Beginning in the 2006-07 school year, the superintendent of public instruction shall implement three objective alternative assessment methods as provided in this section for students to demonstrate achievement of the state standards in content areas in which the student has not yet met the standard on the high school Washington assessment of student learning. A student may access any alternative if the student meets applicable eligibility criteria in RCW 28A.655.061 and any other eligibility criteria established by the superintendent of public instruction.

(2) For the purposes of this section, "applicant" means a student seeking to use one of the alternative assessment methods in this section.

(3) The alternative assessment methods shall include:

(a) A combination of the applicant's grades in applicable courses and the applicant's highest score on the high school



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Washington assessment of student learning, as provided in this subsection.

(i) Using guidelines prepared by the superintendent of public instruction, a school district shall identify the group of students in the same school as the applicant who took the same high school courses as the applicant in the applicable content area. From the group of students identified in this manner, the district shall select the comparison cohort that shall be those students who met or slightly exceeded the state standard on the Washington assessment of student learning.

(ii) The district shall compare the applicant's grades in high school courses in the applicable content area to the grades of students in the comparison cohort for the same high school courses. If the applicant's grades are equal to or above the mean grades of the comparison cohort, the applicant shall be deemed to have met the state standard on the alternative assessment.

(iii) An applicant may not use the alternative assessment under this subsection (3)(a) if there are fewer than six students in the comparison cohort.

(b) An evaluation of a collection of work samples prepared and submitted by the applicant, as provided in this subsection, and for career and technical applicants, the additional requirements of subsection (3)(c).

(i) The superintendent of public instruction shall develop guidelines for the types and number of work samples in each content area that may be submitted as a collection to evidence that the applicant has met the state standard in that content area. Work samples may be collected from academic, career and technical, or remedial courses and may include performance tasks as well as written products.

(ii) The superintendent shall develop protocols for submission of the collection of work samples that include affidavits from the applicant's teachers and school district that the samples are the work of the applicant and a requirement that a portion of the samples be prepared under the direct supervision of a classroom teacher.

(iii) The superintendent shall develop uniform scoring criteria for evaluating the collection of work samples. Collections shall be scored at the state level or regionally by a panel of educators selected and trained by the superintendent to ensure objectivity, reliability, and rigor in the evaluation. An educator may not score work samples submitted by applicants from the educator's school district. If the panel awards an applicant's collection of work samples the minimum required score, the applicant shall be deemed to have met the state standard on the alternative assessment.

(c) An evaluation of a collection of work samples prepared and submitted by an applicant who is enrolled in a career and technical education program approved under section 2 of this act, as provided in this subsection and subsection (3)(b). To meet the state standard on the alternative assessment under this subsection (3)(c), an applicant must also attain the state or nationally recognized certificate or credential associated with the approved career and technical program. The superintendent of public instruction shall develop guidelines for the collection of work samples that evidences that the collection:

(i) Is relevant to the student's particular career and technical program;

(ii) Focuses on the application of academic knowledge and skills within the program;

(iii) Includes completed activities or projects where demonstration of academic knowledge is inferred; and

(iv) Is related to the essential academic learning requirements and state standards that students must meet to earn a certificate of academic achievement or certificate of individual achievement, but also represents the knowledge and skills that successful individuals in the career and technical field of the approved program are expected to possess.

(4) In developing the work samples for subsection (3)(c), the superintendent shall consult with community and technical colleges, employers, the work force training and education

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coordinating board, apprenticeship programs, and other regional and national experts in career and technical education to create an appropriate collection of work samples and other evidence of a career and technical student's knowledge and skills on the state academic standards.

(5) The superintendent of public instruction shall implement:

(a) By June 1, 2006, a process for students to appeal the score they received on the high school assessments; and

(b) By January 1, 2007, guidelines and appeal processes for waiving specific requirements in RCW 28A.655.061 pertaining to the certificate of academic achievement and to the certificate of individual achievement for students who:

(i) Transfer to a Washington public school in their junior or senior year with the intent of obtaining a public high school diploma, or

(ii) have special, unavoidable circumstances.

(6)(a) The superintendent of public instruction shall study the feasibility of using existing mathematics assessments in languages other than English as an additional alternative assessment option. The study shall include an estimation of the cost of translating the tenth grade mathematics assessment into other languages and scoring the assessments should they be implemented.

(b) The superintendent of public instruction shall begin development of an additional alternative assessment option for mathematics that: presents the mathematics essential learnings in segments for assessment; 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.

(7) The superintendent of public instruction may adopt rules to implement this section.

**NEW SECTION, Sec. 2** A new section is added to chapter 28C.04 RCW to read as follows:

The superintendent of public instruction shall develop a list of approved career and technical education programs that qualify for the objective alternative assessment for career and technical students developed under section 1 of this act. Programs on the list must meet the following minimum criteria:

(1) Lead to a certificate or credential that is state or nationally recognized by trades, industries, or other professional associations as necessary for employment or advancement in that field;

(2) Require a sequenced progression of multiple courses, both exploratory and preparatory, that are vocationally intensive and rigorous; and

(3) Have a high potential for providing the program completer with gainful employment or entry into a postsecondary work force training program.

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

(1) Beginning with the high school graduating class of 2008, a certificate of academic progress shall be available to students who have completed all state and local requirements for high school graduation except obtaining a certificate of academic achievement under RCW 28A.655.061 or a certificate of individual achievement under RCW 28A.155.045. The certificate of academic progress is not the equivalent of a high school diploma, but enables students to participate in commencement ceremonies upon meeting the criteria in this section.

(2) To be eligible for a certificate of academic progress, a student must:

(a) Pass all state and local high school graduation requirements except for obtaining a certificate of academic achievement or a certificate of individual achievement and must have taken at least one retake;

(b) Maintain at least a ninety percent attendance level during the senior year of high school, however the school district superintendent may waive this requirement upon the student providing documentation of circumstances such as illness that

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warrant waiving this requirement; and

(c) Meet with counselors, teachers, and parents, as appropriate, to update the student's high school and beyond plan.

**NEW SECTION. Sec. 4.** (1) By January 2007, the superintendent of public instruction shall report the following, in detail, to the education committees of the legislature:

(a) The guidelines, protocols, and procedures used by the superintendent in implementing the alternative assessments, particularly the collection of evidence;

(b) A description of the training to be provided for school districts, educators serving on scoring panels, and teachers assisting students with collections of work samples;

(c) Updated data on the number of students using or likely to be eligible to use the alternative assessment methods; and

(d) The results of the study in section 1(6)(a) of this act and the development status of the additional assessment option in section 1(6)(b) of this act.

Correct title and internal references accordingly.

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

#### MOTION

Senator Esser moved that the following amendment by Senator Esser to the striking amendment be adopted.

On page 1, on line 6 of the amendment, after "implement" strike "three" and insert "an"

On page 1, line 7, after "assessment" strike "methods" and insert "method"

On page 1, line 10, after "access" strike "any" and insert "the"

On page 1, line 15, after "use" strike "one of"

On page 1, line 15, after "assessment" strike "methods" and insert "method"

On page 1, line 17, after "assessment" strike all material through "A" on line 18 and insert "method shall include a"

On page 2, at the beginning of line 7, strike all material through "(5)" on page 3, line 22, and insert "(4)."

On page 3, line 33, strike "(6)" and insert "(5)"

On page 4, line 8, strike "(7)" and insert "(6)"

On page 4, beginning on line 10 strike all material through "program." on line 25.

On page 5, line 15, after "alternative" strike "assessments" and insert "assessment"

On page 5, line 17, after "(b)" strike everything through "(c)" on line 35.

On page 5, line 21, after "assessment" strike "methods" and insert "method"

Re-number the sections consecutively and correct any internal references accordingly.

On page 1, line 1 of the title, after "authorizing", strike "alternative methods" and insert "an alternative method"

Senators Esser, Roach and Johnson spoke in favor of adoption of the amendment to the striking amendment.

Senators Eide, Weinstein, Schmidt and Finkbeiner spoke against adoption of the amendment to the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator Esser on page 1, line 6 to the striking amendment to Substitute Senate Bill No. 6475.

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

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Senator Hewitt: "Thank you Madam President. We appreciate you trying to get us out of here early but would you mind slowing the gavel down just a bit?"

#### PERSONAL PRIVILEGE

Senator McCaslin: "My congratulations to the President. That is the fastest gavel I've seen in twenty-six years. I'm surprised it didn't catch fire, going so fast."

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senators McAuliffe and Schmidt to Substitute Senate Bill No. 6475.

Senators McAuliffe, Schmidt, Rockefeller, Hargrove and Shin spoke in favor of adoption of the striking amendment.

Senators Hewitt and Pflug spoke against adoption of the striking amendment.

#### MOTION

Senator Weinstein demanded that the previous question be put.

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

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

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

#### MOTION

On motion of Senator Mulliken, Senators Honeyford, Hewitt and Morton were excused.

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

#### MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed Substitute Senate Bill No. 6475 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

#### MOTION

On motion of Senator Regala, Senator Poulsen was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6475.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6475 and the bill passed the Senate by the following vote: Yeas, 33; Nays, 10; Absent, 0; Excused, 6.

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Voting yea: Senators Benton, Berkey, Brown, Delvin, Doumit, Eide, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Parlette, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 33

Voting nay: Senators Benson, Brandland, Carrell, Esser, Johnson, McCaslin, Mulliken, Oke, Pflug and Roach - 10

Excused: Senators Deccio, Hewitt, Honeyford, Jacobsen, Morton and Poulsen - 6

ENGROSSED SUBSTITUTE SENATE BILL NO. 6475, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6239, by Senators Hargrove, Johnson, Doumit, Oke, Stevens and Esser

Changing provisions relating to crimes. Revised for 2nd Substitute: Changing provisions relating to controlled substances.

## MOTION

On motion of Senator Hargrove, Second Substitute Senate Bill No. 6239 was substituted for Senate Bill No. 6239 and the second substitute bill was placed on the second reading and read the second time.

## MOTION

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

Strike everything after the enacting clause and insert the following:

### "PART I SUBSTANCE ABUSE REDUCTION

**NEW SECTION. Sec. 101** A new section is added to chapter 70.96A RCW to read as follows:

(1) Any county that has imposed the sales and use tax authorized by RCW 82.14.460 may seek a state appropriation of up to one hundred thousand dollars annually beginning in fiscal year 2008 and ending in fiscal year 2010. The funds shall be used to provide additional support to counties for mental health or substance abuse treatment for persons with methamphetamine addiction. Local governments receiving funds under this section may not use the funds to supplant existing funding.

(2) Counties receiving funding shall: (a) Provide a financial plan for the expenditure of any potential funds prior to funds being awarded; (b) report annually to the appropriate committees of the legislature regarding the number of clients served, services provided, and a statement of expenditures; and (c) expend no more than ten percent for administrative costs or for information technology.

**NEW SECTION. Sec. 102** A new section is added to chapter 72.09 RCW to read as follows:

(1) Through June 30, 2010, it is the intent of the legislature to provide one hundred additional placements for therapeutic drug and alcohol treatment in the state's correctional institutions, above the level of placements provided on January 1, 2006.

(2) This section expires June 30, 2010.

**NEW SECTION. Sec. 103** It is the intent of the legislature to provide an annual combined level of state and federal funding for multijurisdictional drug task forces and local government

drug prosecution assistance at a minimum of four million dollars.

**NEW SECTION. Sec. 104** (1) It is the intent of the legislature to provide assistance for jurisdictions enforcing illegal drug laws that have historically been underserved by federally funded state narcotics task forces and are considered to be major transport areas of narcotics traffickers.

**NEW SECTION. Sec. 105** Three pilot enforcement areas shall be established for a period of four fiscal years, beginning July 1, 2006, and ending June 30, 2010, with one in the southwestern region of the state, comprising of Pacific, Wahkiakum, Lewis, Grays Harbor, and Cowlitz counties; one in the southeastern region of the state, comprising of Walla Walla, Columbia, Garfield, and Asotin counties; and one in the northeastern part of the state, comprising of Stevens, Ferry, Pend Oreille, and Lincoln counties. The counties comprising a specific pilot area shall coordinate with each other to establish and implement a regional strategy to enforce illegal drug laws.

**NEW SECTION. Sec. 106** It is the intent of the legislature to provide funding of no less than one million five hundred seventy-five thousand dollars annually. The funding is to be divided equally among the three pilot enforcement areas. This funding is intended to provide a minimum of four additional sheriff deputies for each pilot area, two deputy prosecutors who will support the counties that are included in the pilot area, a court clerk, and clerical staff to serve the pilot area. It is the intent of the legislature that those counties that have not previously received significant federal narcotics task force funding shall be allocated funding for at least one additional sheriff's deputy. Counties are encouraged to utilize drug courts and treatment programs, and to share resources that operate in the region through the use of interlocal agreements. The funding appropriated for this purpose must not be used to supplant existing funding and cannot be used for any purpose other than the enforcement of illegal drug laws.

The criminal justice training commission shall allocate funds to the Washington association of prosecuting attorneys and the Washington association of sheriffs and police chiefs. The Washington association of prosecuting attorneys is responsible for administration of the funding and programs for the prosecution of crimes and court proceedings. The Washington association of sheriffs and police chiefs shall administer the funds provided for law enforcement.

**NEW SECTION. Sec. 107** The Washington association of sheriffs and police chiefs, the Washington association of prosecuting attorneys, and the Washington association of county officials shall jointly develop measures to determine the efficacy of the programs in the pilot areas. These measures shall include comparison of arrest rates before the implementation of this act and after, reduction of recidivism, and any other factors that are determined to be relevant to evaluation of the programs. The organizations named in this section shall present their findings to the legislature by December 1, 2008.

**Sec. 108 RCW 2.28.170 and 2005 c 504 s 504** are each amended to read as follows:

(1) Counties may establish and operate drug courts.

(2) For the purposes of this section, "drug court" means a court that has special calendars or dockets designed to achieve a reduction in recidivism and substance abuse among nonviolent, substance abusing felony and nonfelony offenders, whether adult or juvenile, by increasing their likelihood for successful rehabilitation through early, continuous, and intense judicially supervised treatment; mandatory periodic drug testing; and the use of appropriate sanctions and other rehabilitation services.

(3)(a) Any jurisdiction that seeks a state appropriation to fund a drug court program must first:

(i) Exhaust all federal funding that is available to support the operations of its drug court and associated services; and

(ii) Match, on a dollar-for-dollar basis, state moneys allocated for drug court programs with local cash or in-kind resources. Moneys allocated by the state must be used to

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supplement, not supplant, other federal, state, and local funds for drug court operations and associated services.

(b) Any county that establishes a drug court pursuant to this section shall establish minimum requirements for the participation of offenders in the program. The drug court may adopt local requirements that are more stringent than the minimum. The minimum requirements are:

(i) The offender would benefit from substance abuse treatment;  
(ii) The offender has not previously been convicted of a serious violent offense or sex offense as defined in RCW 9.94A.030; and

(iii) Without regard to whether proof of any of these elements is required to convict, the offender is not currently charged with or convicted of an offense:

- (A) That is a sex offense;
- (B) That is a serious violent offense;
- (C) During which the defendant used a firearm; or
- (D) During which the defendant caused substantial or great bodily harm or death to another person.

**Sec. 109** RCW 26.44.020 and 2000 c 162 s 19 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Court" means the superior court of the state of Washington, juvenile department.

(2) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(3) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" includes a duly accredited Christian Science practitioner: PROVIDED, HOWEVER, That a person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner will not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(4) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment or care.

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

(6) "Child" or "children" means any person under the age of eighteen years of age.

(7) "Professional school personnel" include, but are not limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(8) "Social service counselor" means anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(9) "Psychologist" means any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(10) "Pharmacist" means any registered pharmacist under chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(11) "Clergy" means any regularly licensed or ordained minister, priest, or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(12) "Abuse or neglect" means the injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child by any person under circumstances which indicate that the

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child's health, welfare, and safety is harmed, including conduct prohibited under RCW 9A.42.100, and excluding conduct permitted under RCW 9A.16.100. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

(13) "Child protective services section" means the child protective services section of the department.

(14) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

(15) "Negligent treatment or maltreatment" means an act or omission that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the child's health, welfare, and safety. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment.

(16) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard such children from future abuse and neglect, and conduct investigations of child abuse and neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. Child protective services includes referral to services to ameliorate conditions that endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.

(17) "Malice" or "maliciously" means an evil intent, wish, or design to vex, annoy, or injure another person. Such malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.

(18) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

(19) "Unfounded" means available information indicates that, more likely than not, child abuse or neglect did not occur. No unfounded allegation of child abuse or neglect may be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under chapter 74.15 RCW.

**Sec. 110** RCW 26.44.020 and 2005 c 512 s 5 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Court" means the superior court of the state of Washington, juvenile department.

(2) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(3) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" includes a duly accredited Christian Science practitioner: PROVIDED, HOWEVER, That a person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner will not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(4) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment or care.

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

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(6) "Child" or "children" means any person under the age of eighteen years of age.

(7) "Professional school personnel" include, but are not limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(8) "Social service counselor" means anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(9) "Psychologist" means any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(10) "Pharmacist" means any registered pharmacist under chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(11) "Clergy" means any regularly licensed or ordained minister, priest, or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(12) "Abuse or neglect" means sexual abuse, sexual exploitation, or injury of a child by any person under circumstances which cause harm to the child's health, welfare, or safety, including conduct prohibited under RCW 9A.42.100, and excluding conduct permitted under RCW 9A.16.100; or the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

(13) "Child protective services section" means the child protective services section of the department.

(14) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

(15) "Negligent treatment or maltreatment" means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety. When considering whether a clear and present danger exists, evidence of a parent's substance abuse as a contributing factor to negligent treatment or maltreatment shall be given great weight. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment. Poverty, homelessness, or exposure to domestic violence as defined in RCW 26.50.010 that is perpetrated against someone other than the child (~~do~~ ~~does~~) does not constitute negligent treatment or maltreatment in and of ~~((themselves [itself])) itself.~~

(16) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard such children from future abuse and neglect, and conduct investigations of child abuse and neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. Child protective services includes referral to services to ameliorate conditions that endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or

developmental inability to describe the nature and severity of the abuse or neglect.

(17) "Malice" or "maliciously" means an evil intent, wish, or design to vex, annoy, or injure another person. Such malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.

(18) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

(19) "Unfounded" means available information indicates that, more likely than not, child abuse or neglect did not occur. No unfounded allegation of child abuse or neglect may be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under chapter 74.15 RCW.

**Sec. 111** RCW 26.44.195 and 2005 c 512 s 6 are each amended to read as follows:

(1) If the department, upon investigation of a report that a child has been abused or neglected as defined in this chapter, determines that the child has been subject to negligent treatment or maltreatment, the department may offer services to the child's parents, guardians, or legal custodians to: (a) Ameliorate the conditions that endangered the welfare of the child; or (b) address or treat the effects of mistreatment or neglect upon the child.

(2) When evaluating whether the child has been subject to negligent treatment or maltreatment, evidence of a parent's substance abuse as a contributing factor to a parent's failure to provide for a child's basic health, welfare, or safety shall be given great weight.

(3) If the child's parents, guardians, or legal custodians are available and willing to participate on a voluntary basis in in-home services, and the department determines that in-home services on a voluntary basis are appropriate for the family, the department may offer such services.

(4) In cases where the department has offered appropriate and reasonable services under subsection (1) of this section, and the parents, guardians, or legal custodians refuse to accept or fail to obtain available and appropriate treatment or services, or are unable or unwilling to participate in or successfully and substantially complete the treatment or services identified by the department, the department may initiate a dependency proceeding under chapter 13.34 RCW on the basis that the negligent treatment or maltreatment by the parent, guardian, or legal custodian constitutes neglect. When evaluating whether to initiate a dependency proceeding on this basis, the evidence of a parent's substance abuse as a contributing factor to the negligent treatment or maltreatment shall be given great weight.

(5) Nothing in this section precludes the department from filing a dependency petition as provided in chapter 13.34 RCW if it determines that such action is necessary to protect the child from abuse or neglect.

~~((6) Nothing in this section shall be construed to create in any person an entitlement to services or financial assistance in paying for services or to create judicial authority to order the provision of services to any person or family if the services are unavailable or unsuitable or if the child or family is not eligible for such services.))~~

**Sec. 112** RCW 74.34.020 and 2003 c 230 s 1 are each amended to read as follows:

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

(1) "Abandonment" means action or inaction by a person or entity with a duty of care for a vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

(2) "Abuse" means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a vulnerable adult. In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain, or

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mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, and exploitation of a vulnerable adult, which have the following meanings:

(a) "Sexual abuse" means any form of nonconsensual sexual contact, including but not limited to unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual abuse includes any sexual contact between a staff person, who is not also a resident or client, of a facility or a staff person of a program authorized under chapter 71A.12 RCW, and a vulnerable adult living in that facility or receiving service from a program authorized under chapter 71A.12 RCW, whether or not it is consensual.

(b) "Physical abuse" means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, prodding, or the use of chemical restraints or physical restraints unless the restraints are consistent with licensing requirements, and includes restraints that are otherwise being used inappropriately.

(c) "Mental abuse" means any willful action or inaction of mental or verbal abuse. Mental abuse includes, but is not limited to, coercion, harassment, inappropriately isolating a vulnerable adult from family, friends, or regular activity, and verbal assault that includes ridiculing, intimidating, yelling, or swearing.

(d) "Exploitation" means an act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another.

(3) "Consent" means express written consent granted after the vulnerable adult or his or her legal representative has been fully informed of the nature of the services to be offered and that the receipt of services is voluntary.

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

(5) "Facility" means a residence licensed or required to be licensed under chapter 18.20 RCW, boarding homes; chapter 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes; chapter 72.36 RCW, soldiers' homes; or chapter 71A.20 RCW, residential habilitation centers; or any other facility licensed by the department.

(6) "Financial exploitation" means the illegal or improper use of the property, income, resources, or trust funds of the vulnerable adult by any person for any person's profit or advantage.

(7) "Individual provider" means a person under contract with the department to provide services in the home under chapter 74.09 or 74.39A RCW.

(8) "Mandated reporter" is an employee of the department; law enforcement officer; social worker; professional school personnel; individual provider; an employee of a facility; an operator of a facility; an employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency; county coroner or medical examiner; Christian Science practitioner; or health care provider subject to chapter 18.130 RCW.

(9) "Neglect" means (a) a pattern of conduct or inaction by a person or entity with a duty of care that fails to provide the goods and services that maintain physical or mental health of a vulnerable adult, or that fails to avoid or prevent physical or mental harm or pain to a vulnerable adult, including but not limited to conduct prohibited under RCW 9A.42.100; or (b) an act or omission that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the vulnerable adult's health, welfare, or safety.

(10) "Permissive reporter" means any person, employee of a financial institution, attorney, or volunteer in a facility or program providing services for vulnerable adults.

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(11) "Protective services" means any services provided by the department to a vulnerable adult with the consent of the vulnerable adult, or the legal representative of the vulnerable adult, who has been abandoned, abused, financially exploited, neglected, or in a state of self-neglect. These services may include, but are not limited to case management, social casework, home care, placement, arranging for medical evaluations, psychological evaluations, day care, or referral for legal assistance.

(12) "Self-neglect" means the failure of a vulnerable adult, not living in a facility, to provide for himself or herself the goods and services necessary for the vulnerable adult's physical or mental health, and the absence of which impairs or threatens the vulnerable adult's well-being. This definition may include a vulnerable adult who is receiving services through home health, hospice, or a home care agency, or an individual provider when the neglect is not a result of inaction by that agency or individual provider.

(13) "Vulnerable adult" includes a person:

(a) Sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself; or

(b) Found incapacitated under chapter 11.88 RCW; or

(c) Who has a developmental disability as defined under RCW 71A.10.020; or

(d) Admitted to any facility; or

(e) Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW; or

(f) Receiving services from an individual provider.

NEW SECTION. Sec. 113 The department of community, trade, and economic development shall review federal, state, and local funding sources and funding levels available to local meth action teams through the Washington state methamphetamine initiative to determine whether funding is adequate to accomplish the mission of the meth action teams. The department shall also review the funding levels for drug task forces in the state of Washington to determine whether they may require additional resources to successfully interdict drug trafficking organizations and clandestine labs statewide. The department shall report findings and recommendations to the legislature by November 1, 2006.

NEW SECTION. Sec. 114 The department of social and health services shall consult with faith-based organizations to discuss the appropriate role that such organizations may have in filling support service delivery needs for persons with chemical dependency disorders. The department shall report findings and recommendations to the legislature by November 1, 2006.

NEW SECTION. Sec. 115 The agency council on coordinated transportation shall adopt, as a part of its strategic program, a plan to increase access by recovering addicts to existing special needs transportation services already offered by medicaid brokerages and local transportation coalitions. The council may also implement an awareness campaign through department of corrections community corrections officers and service providers licensed by the department of social and health services division of alcohol and substance abuse to promote to recovering addicts seeking treatment the use of special needs transportation services, the council web site, and the statewide trip planner. The council shall report back to the legislature regarding the implementation of these strategies by November 1, 2006.

NEW SECTION. Sec. 116 The department of social and health services, in consultation with the attorney general, shall report to the legislature by January 15, 2007, on the status of ongoing multimedia campaigns to prevent methamphetamine use and underage drinking, and promote treatment, within the state of Washington.

## PART II DRUG-FREE WORKPLACE PROGRAM

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**NEW SECTION. Sec. 201** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

(2) "Alcohol test" means a chemical, biological, or physical instrumental analysis administered for the purpose of determining the presence or absence of alcohol within an individual's body systems.

(3) "Chain of custody" means the methodology of tracking specimens for the purpose of maintaining control and accountability from initial collection to final disposition for all specimens and providing for accountability at each stage in handling, testing, and storing specimens and reporting test results.

(4) "Collection site" means a place where individuals present themselves for the purpose of providing a urine, breath, or other specimen to be analyzed for the presence of drugs or alcohol.

(5) "Confirmation test" or "confirmed test" means a second analytical procedure used to identify the presence of a specific drug or metabolic in a specimen. Drug tests must be confirmed as specified in section 205(5) of this act. Alcohol tests must be confirmed by a second breath test or as specified for drug tests.

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

(7) "Drug" means amphetamines, cannabinoids, cocaine, phencyclidine (PCP), methadone, methaqualone, opiates, barbiturates, benzodiazepines, propoxyphene, or a metabolite of any such substances.

(8) "Drug test" means a chemical, biological, or physical instrumental analysis administered on a specimen sample for the purpose of determining the presence or absence of a drug or its metabolites within the sample.

(9) "Employee" means a person who is employed for salary, wages, or other remuneration by an employer.

(10) "Employee assistance program" means a program designed to assist in the identification and resolution of job performance problems associated with employees impaired by personal concerns. A minimum level of core services must include: Consultation and professional, confidential, appropriate, and timely problem assessment services; short-term problem resolution; referrals for appropriate diagnosis, treatment, and assistance; follow-up and monitoring; employee education; and supervisory training.

(11) "Employer" means an employer subject to Title 51 RCW but does not include the state or any department, agency, or instrumentality of the state; any county; any city; any school district or educational service district; or any municipal corporation.

(12) "Initial test" means a sensitive, rapid, and reliable procedure to identify negative and presumptive positive specimens. An initial drug test must use an immunoassay procedure or an equivalent procedure or must use a more accurate scientifically accepted method approved by the national institute on drug abuse as more accurate technology becomes available in a cost-effective form.

(13) "Injury" means a sudden and tangible happening, of a traumatic nature, producing an immediate or prompt result and occurring from without, and such physical conditions as result therefrom.

(14) "Job applicant" means a person who has applied for employment with an employer and has been offered employment conditioned upon successfully passing a drug test and may have begun work pending the results of the drug test.

(15) "Last-chance agreement" means a notice to an employee who is referred to the employee assistance program due to a verified positive alcohol or drug test or for violating an alcohol or drug-related employer rule that states the terms and

conditions of continued employment with which the employee must comply.

(16) "Medical review officer" means a licensed physician trained in the field of drug testing who provides medical assessment of positive test results, requests reanalysis if necessary, and makes a determination whether or not drug misuse has occurred.

(17) "Nonprescription medication" means a drug or medication authorized under federal or state law for general distribution and use without a prescription in the treatment of human disease, ailments, or injuries.

(18) "Prescription medication" means a drug or medication lawfully prescribed by a physician, or other health care provider licensed to prescribe medication, for an individual and taken in accordance with the prescription.

(19) "Rehabilitation program" means a program approved by the department that is capable of providing expert identification, assessment, and resolution of employee drug or alcohol abuse in a confidential and timely service. Any rehabilitation program under this chapter must contain a two-year continuing care component.

(20) "Specimen" means breath or urine. "Specimen" may include other products of the human body capable of revealing the presence of drugs or their metabolites or of alcohol, if approved by the United States department of health and human services and permitted by rules adopted under section 212 of this act.

(21) "Substance" means drugs or alcohol.

(22) "Substance abuse test" or "test" means a chemical, biological, or physical instrumental analysis administered on a specimen sample for the purpose of determining the presence or absence of a drug or its metabolites or of alcohol within the sample.

(23) "Threshold detection level" means the level at which the presence of a drug or alcohol can be reasonably expected to be detected by an initial and confirmation test performed by a laboratory meeting the standards specified in this chapter. The threshold detection level indicates the level at which a valid conclusion can be drawn that the drug or alcohol is present in the employee's specimen.

(24) "Verified positive test result" means a confirmed positive test result obtained by a laboratory meeting the standards specified in this chapter that has been reviewed and verified by a medical review officer in accordance with medical review officer guidelines promulgated by the United States department of health and human services.

(25) "Workers' compensation premium" means the medical aid fund premium and the accident fund premium under Title 51 RCW.

**NEW SECTION. Sec. 202** (1) An employer, except an employer that is self-insured for the purposes of Title 51 RCW, implementing a drug-free workplace program in accordance with section 203 of this act shall qualify for a five percent workers' compensation premium discount under Title 51 RCW if the employer:

(a) Is certified by the division of alcohol and substance abuse of the department as provided in section 212 of this act. The employer must maintain an alcohol and drug-free workplace program in accordance with the standards, procedures, and rules established in or under this chapter. If the employer fails to maintain the program as required, the employer shall not qualify for the premium discount provided under this section;

(b) Is in good standing and remains in good standing with the department of labor and industries with respect to the employer's workers' compensation premium obligations and any other premiums and assessments under Title 51 RCW; and

(c) Has medical insurance available to its full-time employees through an employer, union, or jointly sponsored medical plan.

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(2) The premium discount must remain in effect as long as the employer is certified under section 212 of this act, up to a maximum of three years from the date of initial certification.

(3) A certified employer may discontinue operating a drug-free workplace program at any time. The qualification for a premium discount shall expire in accordance with decertification rules adopted by the department under section 212 of this act.

(4) An employer whose drug-free workplace program reasonably meets, as of July 1, 2006, all the requirements for the premium discount provided in this section is not eligible for certification, except that an employer who has had in place for two years prior to the effective date of this section a drug-free workplace program that meets the requirements of section 203 of this act, but whose policy allows termination for an employee's first verified positive test, shall qualify for a two percent workers' compensation premium discount under Title 51 RCW upon adding a provision for job continuation through a last chance agreement following a first verified positive alcohol or drug test, as required by section 207(1)(b) of this act.

(5) Nothing in this chapter creates or alters an obligation on the part of an employer seeking to participate in this program to bargain with a collective bargaining representative of its employees.

(6) An employer may not receive premium discounts from the department of labor and industries under more than one premium discount program. For purposes of this chapter, the retrospective rating program is not considered a premium discount. An employer participating in and meeting all of the requirements for the discount provided in this section and also participating in another premium discount program offered by the department of labor and industries is only entitled to the premium discount that is the highest.

(7) The department of labor and industries will notify self-insured employers of the value of drug-free workplace programs and encourage them to implement programs that are in accord with section 203 of this act.

**NEW SECTION. Sec. 203** (1) A drug-free workplace program established under this chapter must contain all of the following elements:

(a) A written policy statement in compliance with section 204 of this act;

(b) Substance abuse testing in compliance with section 205 of this act;

(c) An employee assistance program in compliance with section 206 of this act;

(d) Employee education in compliance with section 208 of this act; and

(e) Supervisor training in compliance with section 209 of this act.

(2) In addition to the requirements of subsection (1) of this section, a drug-free workplace program established under this chapter must be implemented in compliance with the confidentiality standards provided in section 211 of this act.

**NEW SECTION. Sec. 204** (1) An alcohol and drug-free workplace program established under this chapter must contain a written substance abuse policy statement in order to qualify for the premium discount provided under section 202 of this act. The policy must:

(a) Notify employees that the use or being under any influence of alcohol during working hours is prohibited;

(b) Notify employees that the use, purchase, possession, or transfer of drugs or having drugs in their system is prohibited and that prescription or nonprescription medications are not prohibited when taken in accordance with a lawful prescription or consistent with standard dosage recommendations;

(c) Identify the types of testing an employee or job applicant may be required to submit to or other basis used to determine when such a test will be required;

(d) Identify the actions the employer may take against an employee or job applicant on the basis of a verified positive test result;

(e) Contain a statement advising an employee or job applicant of the existence of this chapter;

(f) Contain a general statement concerning confidentiality;

(g) Identify the consequences of refusing to submit to a drug test;

(h) Contain a statement advising an employee of the employee assistance program;

(i) Contain a statement that an employee or job applicant who receives a verified positive test result may contest or explain the result to the employer within five working days after receiving written notification of the positive test result;

(j) Contain a statement informing an employee of the provisions of the federal drug-free workplace act, if applicable to the employer; and

(k) Notify employees that the employer may discipline an employee for failure to report an injury in the workplace.

(2) An employer not having a substance abuse testing program in effect on July 1, 2006, shall ensure that at least sixty days elapse between a general one-time notice to all employees that a substance abuse testing program is being implemented and the beginning of the actual testing. An employer having a substance abuse testing program in place before July 1, 2006, is not required to provide a sixty-day notice period.

(3) An employer shall include notice of substance abuse testing to all job applicants. A notice of the employer's substance abuse testing policy must also be posted in an appropriate and conspicuous location on the employer's premises, and copies of the policy must be made available for inspection by the employees or job applicants of the employer during regular business hours in the employer's personnel office or other suitable locations. An employer with employees or job applicants who have trouble communicating in English shall make reasonable efforts to help the employees understand the policy statement.

**NEW SECTION. Sec. 205** (1) In conducting substance abuse testing under this chapter, the employer must comply with the standards and procedures established in this chapter and all applicable rules adopted by the department under this chapter and must:

(a) Require job applicants to submit to a drug test after extending an offer of employment. The employer may use a refusal to submit to a drug test or a verified positive test as a basis for not hiring the job applicant;

(b) Investigate each workplace injury that results in a worker needing off-site medical attention and require an employee to submit to drug and alcohol tests if the employer reasonably believes the employee has caused or contributed to an injury which resulted in the need for off-site medical attention. An employer need not require that an employee submit to drug and alcohol tests if a supervisor, trained in accordance with section 209 of this act, reasonably believes that the injury was due to the inexperience of the employee or due to a defective or unsafe product or working condition, or other circumstances beyond the control of the employee. Under this chapter, a first-time verified positive test result may not be used as a basis to terminate an employee's employment. However, nothing in this section prohibits an employee from being terminated for reasons other than the positive test result;

(c) If the employee in the course of employment is referred to the employee assistance program by the employer as a result of a verified positive drug or alcohol test or an alcohol or drug-related incident in violation of employer rules, require the employee to submit to drug and alcohol testing in conjunction with any recommended rehabilitation program. If the employee assistance program determines that the employee does not require treatment services, the employee must still be required to participate in follow-up testing. However, if an employee voluntarily enters an employee assistance program, without a



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verified positive drug or alcohol test or a violation of any drug or alcohol related employer rule, follow-up testing is not required. If follow-up testing is conducted, the frequency of the testing shall be at least four times a year for a two-year period after completion of the rehabilitation program and advance notice of the testing date may not be given. A verified positive follow-up test result shall normally require termination of employment.

(2) This section does not prohibit an employer from conducting other drug or alcohol testing, such as upon reasonable suspicion or a random basis.

(3) Specimen collection and substance abuse testing under this section must be performed in accordance with regulations and procedures approved by the United States department of health and human services and the United States department of transportation regulations for alcohol and drug testing and must include testing for marijuana, cocaine, amphetamines, opiates, and phencyclidine. Employers may test for any drug listed in section 201(7) of this act.

(a) A specimen must be collected with due regard to the privacy of the individual providing the specimen and in a manner reasonably calculated to prevent substitution or contamination of the specimen.

(b) Specimen collection and analysis must be documented.

The documentation procedures must include:

(i) Labeling of specimen containers so as to reasonably preclude the likelihood of erroneous identification of test results; and

(ii) An opportunity for the employee or job applicant to provide to a medical review officer information the employee or applicant considers relevant to the drug test, including identification of currently or recently used prescription or nonprescription medication or other relevant medical information.

(c) Specimen collection, storage, and transportation to the testing site must be performed in a manner that reasonably precludes specimen contamination or adulteration.

(d) An initial and confirmation test conducted under this section, not including the taking or collecting of a specimen to be tested, must be conducted by a laboratory as described in subsection (4) of this section.

(e) A specimen for a test may be taken or collected by any of the following persons:

(i) A physician, a physician's assistant, a registered professional nurse, a licensed practical nurse, a nurse practitioner, or a certified paramedic who is present at the scene of an accident for the purpose of rendering emergency medical service or treatment;

(ii) A qualified person certified or employed by a laboratory certified by the substance abuse and mental health administration or the college of American pathologists; or

(iii) A qualified person certified or employed by a collection company using collection procedures adopted by the United States department of health and human services and the United States department of transportation for alcohol collection.

(f) Within five working days after receipt of a verified positive test result from the laboratory, an employer shall inform an employee or job applicant in writing of the positive test result, the consequences of the result, and the options available to the employee or job applicant.

(g) The employer shall provide to the employee or job applicant, upon request, a copy of the test results.

(h) An initial test having a positive result must be verified by a confirmation test.

(i) An employer who performs drug testing or specimen collection shall use chain of custody procedures to ensure proper recordkeeping, handling, labeling, and identification of all specimens to be tested.

(j) An employer shall pay the cost of all drug or alcohol tests, initial and confirmation, that the employer requires of employees.

(k) An employee or job applicant shall pay the cost of additional tests not required by the employer.

(4)(a) A laboratory may not analyze initial or confirmation drug specimens unless:

(i) The laboratory is approved by the substance abuse and mental health administration or the college of American pathologists;

(ii) The laboratory has written procedures to ensure the chain of custody; and

(iii) The laboratory follows proper quality control procedures including, but not limited to:

(A) The use of internal quality controls including the use of samples of known concentrations that are used to check the performance and calibration of testing equipment, and periodic use of blind samples for overall accuracy;

(B) An internal review and certification process for test results, conducted by a person qualified to perform that function in the testing laboratory;

(C) Security measures implemented by the testing laboratory to preclude adulteration of specimens and test results; and

(D) Other necessary and proper actions taken to ensure reliable and accurate drug test results.

(b) A laboratory shall disclose to the employer a written test result report within seven working days after receipt of the sample. A laboratory report of a substance abuse test result must, at a minimum, state:

(i) The name and address of the laboratory that performed the test and the positive identification of the person tested;

(ii) Positive results on confirmation tests only, or negative results, as applicable;

(iii) A list of the drugs for which the drug analyses were conducted; and

(iv) The type of tests conducted for both initial and confirmation tests and the threshold detection levels of the tests.

A report may not disclose the presence or absence of a drug other than a specific drug and its metabolites listed under this chapter.

(c) A medical review officer shall provide technical assistance to the employer, employee, or job applicant for the purpose of interpreting a positive confirmed drug test result that could have been caused by prescription or nonprescription medication taken by the employee or job applicant. The medical review officer shall interpret and evaluate the laboratory's positive drug test result and eliminate test results that could have been caused by prescription medication or other medically documented sources in accordance with the United States department of health and human services medical review officer manual.

(5) A positive initial drug test must be confirmed using the gas chromatography/mass spectrometry method or an equivalent or more accurate scientifically accepted method approved by the substance abuse and mental health administration as the technology becomes available in a cost-effective form.

**NEW SECTION. Sec. 206** (1) The employee assistance program required under this chapter shall provide the employer with a system for dealing with employees whose job performances are declining due to unresolved problems, including alcohol or other drug-related problems, marital problems, or legal or financial problems.

(2) To ensure appropriate assessment and referral to treatment:

(a) The employer must notify the employees of the benefits and services of the employee assistance program;

(b) The employer shall publish notice of the employee assistance program in conspicuous places and explore alternative routine and reinforcing means of publicizing the services; and

(c) The employer shall provide the employee with notice of the policies and procedures regarding access to and use of the employee assistance program.

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(3) A list of approved employee assistance programs must be provided by the department according to recognized program standards.

**NEW SECTION. Sec. 207** (1)(a) Rehabilitation of employees suffering from either or both alcohol or drug addiction shall be a primary focus of an employee assistance program.

(b) Under any program under this chapter, the employer may not use a first-time verified positive drug or alcohol test as the basis for termination of an employee. After a first-time verified positive test result, the employee must be given an opportunity to keep his or her job through the use of a last-chance agreement. The last-chance agreement shall require an employee to:

- (i) Submit to an employee assistance program evaluation for chemical dependency;
- (ii) Comply with any treatment recommendations;
- (iii) Be subject to follow-up drug and alcohol testing for two years;
- (iv) Meet the same standards of performance and conduct that are set for other employees; and
- (v) Authorize the employer to receive all relevant information regarding the employee's progress in treatment, if applicable.

Failure to comply with all the terms of this agreement normally will result in termination of employment.

(2) When substance abuse treatment is necessary, employees must use treatment services approved by the department, which include a continuing care component lasting for two years.

(a) The employee assistance program shall monitor the employee's progress while in treatment, including the two-year continuing care component, and notify the employer when an employee is not complying with the program's treatment recommendations.

(b) The employer shall monitor job performance and conduct follow-up testing.

(3) An employer may terminate an employee for the following reasons:

- (a) Refusal to submit to a drug or alcohol test;
- (b) Refusal to agree to or failure to comply with the conditions of a last-chance agreement;
- (c) A second verified positive drug or alcohol test result; or
- (d) After the first verified positive drug or alcohol test, any violation of employer rules pertaining to alcohol and drugs.

(4) Nothing in this chapter limits the right of any employer who participates in the worker's compensation premium discount program under this chapter to terminate employment for any other reason.

**NEW SECTION. Sec. 208** As part of a program established under this chapter, an employer shall provide all employees with an annual education program on substance abuse, in general, and its effects on the workplace, specifically. An employer with employees who have difficulty communicating in English shall make reasonable efforts to help the employees understand the substance of the education program. An education program for a minimum of one hour should include but is not limited to the following information:

- (1) The explanation of the disease model of addiction for alcohol and drugs;
- (2) The effects and dangers of the commonly abused substances in the workplace; and
- (3) The employer's policies and procedures regarding substance abuse in the workplace and how employees who wish to obtain substance abuse treatment can do so.

**NEW SECTION. Sec. 209** In addition to the education program provided in section 208 of this act, an employer shall provide all supervisory personnel with a minimum of two hours of supervisor training, that should include but is not limited to the following information:

- (1) How to recognize signs of employee substance abuse;

(2) How to document and collaborate signs of employee substance abuse;

(3) How to refer employees to the employee assistance program or proper treatment providers; and

(4) Circumstances and procedures for postinjury testing.

**NEW SECTION. Sec. 210** (1) A physician-patient relationship is not created between an employee or job applicant and an employer, medical review officer, or person performing or evaluating a drug or alcohol test solely by the establishment, implementation, or administration of a drug or alcohol testing program.

(2) This chapter may not be construed to prevent an employer from establishing reasonable work rules related to employee possession, use, sale, or solicitation of drugs, including convictions for drug-related offenses, and taking action based upon a violation of any of those rules.

(3) This chapter may not be construed to operate retroactively. This chapter does not abrogate the right of an employer under state or federal law to conduct drug or alcohol tests or implement employee drug or alcohol testing programs. However, only those programs that meet the criteria outlined in this chapter qualify for workers' compensation insurance premiums discounts.

(4) This chapter may not be construed to prohibit an employer from conducting medical screening or other tests required, permitted, or not disallowed by a statute or rule for the purpose of monitoring exposure of employees to toxic or other unhealthy materials in the workplace or in the performance of job responsibilities. The screening or tests must be limited to testing for the specific material expressly identified in the statute or rule, unless prior written consent of the employee is obtained for other tests.

(5) This chapter does not establish a legal duty for employers to conduct alcohol or drug tests of employees or job applicants. A cause of action may not arise in favor of a person based upon the failure of an employer to establish or conduct a program or policy for substance abuse testing or to conduct a program or policy in conformance with the standards and procedures established in this chapter. This chapter does not create individual rights of action and may be enforced only by the department by denial of the workers' compensation premium discount provided in section 202 of this act.

**NEW SECTION. Sec. 211** Confidentiality standards that apply to substance abuse testing programs implemented under this chapter include the following:

(1) Information, interviews, reports, statements, memoranda, and test results, written or otherwise, received through a substance abuse testing program are confidential communications, and may not be used or received in evidence, obtained in discovery, or disclosed in a civil or administrative proceeding, except as provided in subsection (5) of this section.

(2) An employer, laboratory, medical review officer, employee assistance program, drug or alcohol rehabilitation program, and their agents who receive or have access to information concerning test results shall keep the information confidential, except as provided in subsection (5) of this section.

(3) Any release of the information must be pursuant to a written consent form that complies with RCW 70.02.030 and is signed voluntarily by the person tested, unless the release is compelled by the division of alcohol and substance abuse of the department or a court of competent jurisdiction in accordance with state and federal confidentiality laws, or unless required by a professional or occupational licensing board in a related disciplinary proceeding. Any disclosure by any agency approved by the department must be in accordance with RCW 70.96A.150. The consent form must contain at a minimum:

- (a) The name of the person who is authorized to obtain the information;
- (b) The purpose of the disclosure;
- (c) The precise information to be disclosed;
- (d) The duration of the consent; and

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(e) The signature of the person authorizing release of the information.

(4) Information on test results may not be released or used in a criminal proceeding against the employee or job applicant. Information released contrary to this subsection is inadmissible as evidence in a criminal proceeding.

(5) Nothing in this chapter prohibits:

(a) An employer from using information concerning an employee or job applicant's substance abuse test results in a lawful manner with respect to that employee or applicant; or

(b) An entity that obtains the information from disclosing or using the information in a lawful manner as part of a matter relating to the substance abuse test, the test result, or an employer action with respect to the job applicant or employee.

**NEW SECTION. Sec. 212** The department shall adopt by rule procedures and forms for the certification of employers who establish and maintain a drug-free workplace that complies with this chapter. The department shall adopt by rule procedures for the decertification of employers formally certified for the workers' compensation premium discount provided under this chapter. The department may charge a fee for the certification of a drug-free workplace program in an amount that must approximate its administrative costs related to the certification. Certification of an employer is required for each year in which a premium discount is granted. The department may adopt any other rules necessary for the implementation of this chapter.

**NEW SECTION. Sec. 213** (1) The department of labor and industries may adopt rules necessary for the implementation of this chapter including but not limited to provisions for penalties and repayment of premium discounts by employers that are decertified by the department of social and health services under section 212 of this act.

(2) The department of labor and industries shall conduct an evaluation of the effect of the premium discount provided for under section 202 of this act on workplace safety and the state of Washington industrial insurance fund. The department of labor and industries shall report its preliminary findings to the appropriate committees of the legislature on September 1st of 2007 and 2008 and shall issue a comprehensive final report on December 1, 2009.

**NEW SECTION. Sec. 214** The department shall conduct an evaluation to determine the costs and benefits of the program under this chapter. If the department contracts for the performance of any or all of the evaluation, no more than ten percent of the contract amount may be used to cover indirect expenses. The department shall report its preliminary findings to the legislature on September 1st of 2007 and 2008 and shall issue a comprehensive final report on December 1, 2009.

**NEW SECTION. Sec. 215** Notwithstanding any other provisions of this chapter, the total premium discounts available under section 202 of this act shall not exceed five million dollars during any fiscal year.

**NEW SECTION. Sec. 216** Sections 201 through 215 of this act constitute a new chapter in Title 49 RCW.

**PART III  
CLEANUP OF CONTAMINATED PROPERTY**

**Sec. 301** RCW 64.44.010 and 1999 c 292 s 2 are each amended to read as follows:

The words and phrases defined in this section shall have the following meanings when used in this chapter unless the context clearly indicates otherwise.

(1) "Authorized contractor" means a person who decontaminates, demolishes, or disposes of contaminated property as required by this chapter who is certified by the department as provided for in RCW 64.44.060.

(2) "Contaminated" or "contamination" means polluted by hazardous chemicals so that the property is unfit for human habitation or use due to immediate or long-term hazards. Property that at one time was contaminated but has been

satisfactorily decontaminated according to procedures established by the state board of health is not "contaminated."

(3) "~~Department~~" means the department of health.

(4) "~~Hazardous chemicals~~" means the following substances ~~((used in)) associated with the illegal manufacture of ((Hegat drugs))~~ controlled substances: (a) Hazardous substances as defined in RCW 70.105D.020~~((and))~~; (b) precursor substances as defined in RCW 69.43.010 which the state board of health, in consultation with the state board of pharmacy, has determined present an immediate or long-term health hazard to humans; and (c) the controlled substance or substances being manufactured, as defined in RCW 69.50.101.

~~((4))~~ (5) "Officer" means a local health officer authorized under chapters 70.05, 70.08, and 70.46 RCW.

~~((5))~~ (6) "Property" means any real or personal property, ((site, structure, or part of a structure which)) or segregable part thereof, that is involved in or affected by the unauthorized manufacture, distribution, or storage of hazardous chemicals. This includes but is not limited to single-family residences, units of multiplexes, condominiums, apartment buildings, motels, hotels, boats, motor vehicles, trailers, manufactured housing, ((or)) any shop, booth, ((or)) garden, or storage shed, and all contents of the items referenced in this subsection.

**Sec. 302** RCW 64.44.020 and 1999 c 292 s 3 are each amended to read as follows:

Whenever a law enforcement agency becomes aware that property has been contaminated by hazardous chemicals, that agency shall report the contamination to the local health officer. The local health officer shall ~~((post))~~ cause a posting of a written warning on the premises within one working day of notification of the contamination and shall inspect the property within fourteen days after receiving the notice of contamination. The warning shall inform the potential occupants that hazardous chemicals may exist on, or have been removed from, the premises and that entry is unsafe. If a property owner believes that a tenant has contaminated property that was being leased or rented, and the property is vacated or abandoned, then the property owner shall contact the local health officer about the possible contamination. Local health officers or boards may charge property owners reasonable fees for inspections of suspected contaminated property requested by property owners.

A local health officer may enter, inspect, and survey at reasonable times any properties for which there are reasonable grounds to believe that the property has become contaminated. If the property is contaminated, the local health officer shall post a written notice declaring that the officer intends to issue an order prohibiting use of the property as long as the property is contaminated.

If access to the property is denied, a local health officer in consultation with law enforcement may seek a warrant for the purpose of conducting administrative inspections. A superior, district, or municipal court within the jurisdiction of the property may, based upon probable cause that the property is contaminated, issue warrants for the purpose of conducting administrative inspections.

Local health officers must report all cases of contaminated property to the state department of health. The department may make the list of contaminated properties available to health associations, landlord and realtor organizations, prosecutors, and other interested groups. The department shall promptly update the list of contaminated properties to remove those which have been decontaminated according to provisions of this chapter.

The local health officer may determine when the services of an authorized contractor are necessary.

**Sec. 303** RCW 64.44.030 and 1999 c 292 s 4 are each amended to read as follows:

(1) If after the inspection of the property, the local health officer finds that it is contaminated, then the ~~((property shall be found unfit for))~~ local health officer shall issue an order declaring the property unfit and prohibiting its use. The local

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health officer shall cause the order to be served (~~(an order prohibiting use)~~) either personally or by certified mail, with return receipt requested, upon all occupants and persons having any interest therein as shown upon the records of the auditor's office of the county in which such property is located. The local health officer shall also (~~(post)~~) cause the order (~~(prohibiting use)~~) to be posted in a conspicuous place on the property. If the whereabouts of such persons is unknown and the same cannot be ascertained by the local health officer in the exercise of reasonable diligence, and the health officer makes an affidavit to that effect, then the serving of the order upon such persons may be made either by personal service or by mailing a copy of the order by certified mail, postage prepaid, return receipt requested, to each person at the address appearing on the last equalized tax assessment roll of the county where the property is located or at the address known to the county assessor, and the order shall be posted conspicuously at the residence. A copy of the order shall also be mailed, addressed to each person or party having a recorded right, title, estate, lien, or interest in the property. The order shall contain a notice that a hearing before the local health board or officer shall be held upon the request of a person required to be notified of the order under this section. The request for a hearing must be made within ten days of serving the order. The hearing shall then be held within not less than twenty days nor more than thirty days after the serving of the order. The officer shall prohibit use as long as the property is found to be contaminated. A copy of the order shall also be filed with the auditor of the county in which the property is located, where the order pertains to real property, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. In any hearing concerning whether property is fit for use, the property owner has the burden of showing that the property is decontaminated or fit for use. The owner or any person having an interest in the property may file an appeal on any order issued by the local health board or officer within thirty days from the date of service of the order with the appeals commission established pursuant to RCW 35.80.030. All proceedings before the appeals commission, including any subsequent appeals to superior court, shall be governed by the procedures established in chapter 35.80 RCW.

(2) If the local health officer determines immediate action is necessary to protect public health, safety, or the environment, the officer may issue or cause to be issued an emergency order, and any person to whom such an order is directed shall comply immediately. Emergency orders issued pursuant to this section shall expire no later than seventy-two hours after issuance and shall not impair the health officer from seeking an order under subsection (1) of this section.

**Sec. 304** RCW 64.44.040 and 1999 c 292 s 5 are each amended to read as follows:

(1) Upon issuance of an order declaring property unfit and prohibiting its use, the city or county in which the contaminated property is located may take action to prohibit use, occupancy, or removal of such property; condemn, decontaminate, or demolish the property; or ((to)) require that the property be vacated or the contents removed from the property. The city or county may use an authorized contractor if property is demolished, decontaminated, or removed under this section. The city, county, or contractor shall comply with all orders of the health officer during these processes. No city or county may condemn, decontaminate, or demolish property pursuant to this section until all procedures granting the right of notice and the opportunity to appeal in RCW 64.44.030 have been exhausted, but may prohibit use, occupancy, or removal of contaminated property pending appeal of the order.

(2)(a) It is unlawful for any person to enter upon any property, or to remove any property, that has been found unfit for use by a local health officer pursuant to RCW 64.44.030.

(b) This subsection does not apply to: (i) Health officials, law enforcement officials, or other government agents

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performing their official duties; (ii) authorized contractors or owners performing decontamination pursuant to authorization by the local health officer; and (iii) any person acting with permission of a local health officer, or of a superior court or hearing examiner following an appeal of a decision of the local health officer.

(c) Any person who violates this subsection is guilty of a misdemeanor.

(3) No provision of this section may be construed to limit the ability of the local health officer to permit occupants or owners of the property at issue to remove uncontaminated personal property from the premises.

**Sec. 305** RCW 64.44.050 and 1999 c 292 s 6 are each amended to read as follows:

(1) An owner of contaminated property who desires to have the property decontaminated, demolished, or disposed of shall use the services of an authorized contractor unless otherwise authorized by the local health officer. The contractor and property owner shall prepare and submit a written work plan for decontamination, demolition, or disposal to the local health officer. The local health officer may charge a reasonable fee for review of the work plan. If the work plan is approved and the decontamination, demolition, or disposal is completed and the property is retested according to the plan and properly documented, then the health officer shall allow reuse of the property. A release for reuse document shall be recorded in the real property records indicating the property has been decontaminated, demolished, or disposed of in accordance with rules of the state department of health. The property owner is responsible for: (a) The costs of any property testing which may be required to demonstrate the presence or absence of hazardous chemicals; and (b) the costs of the property's decontamination, demolition, and disposal expenses, as well as costs incurred by the local health officer resulting from the enforcement of this chapter.

(2) The local health officer has thirty days from the issuance of an order declaring a property unfit and prohibiting its use to establish a reasonable timeline for decontamination. The department of health shall establish the factors to be considered by the local health officer in establishing the appropriate amount of time.

The local health officer shall notify the property owner of the proposed time frame by United States mail to the last known address. Notice shall be postmarked no later than the thirtieth day from the issuance of the order. The property owner may request a modification of the time frame by submitting a letter identifying the circumstances which justify such an extension to the local health officer within thirty-five days of the date of the postmark on the notification regardless of when received.

**Sec. 306** RCW 64.44.060 and 1999 c 292 s 7 are each amended to read as follows:

(1) A contractor, supervisor, or worker may not perform decontamination, demolition, or disposal work unless issued a certificate by the state department of health. The department shall establish performance standards for contractors, supervisors, and workers by rule in accordance with chapter 34.05 RCW, the administrative procedure act. The department shall train and test, or may approve courses to train and test, contractors, supervisors, and ((their employees)) workers on the essential elements in assessing property used as an illegal ((drug)) controlled substances manufacturing or storage site to determine hazard reduction measures needed, techniques for adequately reducing contaminants, use of personal protective equipment, methods for proper decontamination, demolition, removal, and disposal of contaminated property, and relevant federal and state regulations. Upon successful completion of the training, and after a background check, the contractor, supervisor, or ((employee)) worker shall be certified.

(2) The department may require the successful completion of annual refresher courses provided or approved by the department for the continued certification of the contractor or employee.

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(3) The department shall provide for reciprocal certification of any individual trained to engage in decontamination, demolition, or disposal work in another state when the prior training is shown to be substantially similar to the training required by the department. The department may require such individuals to take an examination or refresher course before certification.

(4) The department may deny, suspend, ~~((or))~~ revoke, or place restrictions on a certificate for failure to comply with the requirements of this chapter or any rule adopted pursuant to this chapter. A certificate may be denied, suspended, ~~((or))~~ revoked, or have restrictions placed on it on any of the following grounds:

(a) Failing to perform decontamination, demolition, or disposal work under the supervision of trained personnel;

(b) Failing to perform decontamination, demolition, or disposal work using department of health certified decontamination personnel;

~~((c))~~ (c) Failing to file a work plan;

~~((d))~~ (d) Failing to perform work pursuant to the work plan;

~~((e))~~ (e) Failing to perform work that meets the requirements of the department and the requirements of the local health officers;

~~((f))~~ (f) The certificate was obtained by error, misrepresentation, or fraud; or

(g) Failing to properly dispose of contaminated property;

(g) Committing fraud or misrepresentation in: (i) Applying for or obtaining a certification, recertification, or reinstatement; (ii) seeking approval of a work plan; and (iii) documenting completion of work to the department or local health officer;

(h) Failing the evaluation and inspection of decontamination projects pursuant to section 308 of this act; or

(i) If the person has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

(5) A contractor, supervisor, or worker who violates any provision of this chapter may be assessed a fine not to exceed five hundred dollars for each violation.

(6) The department of health shall prescribe fees as provided for in RCW 43.70.250 for The issuance and renewal of certificates, conducting background checks of applicants, the administration of examinations, and ~~((for))~~ the review of training courses.

(7) The decontamination account is hereby established in the state treasury. All fees collected under this chapter shall be deposited in this account. Moneys in the account may only be spent after appropriation for costs incurred by the department in the administration and enforcement of this chapter.

**Sec. 307** RCW 64.44.070 and 1999 c 292 s 8 are each amended to read as follows:

(1) The state board of health shall promulgate rules and standards for carrying out the provisions in this chapter in accordance with chapter 34.05 RCW, the administrative procedure act. The local board of health and the local health officer are authorized to exercise such powers as may be necessary to carry out this chapter. The department shall provide technical assistance to local health boards and health officers to carry out their duties under this chapter.

(2) The department shall adopt rules for decontamination of a property used as ~~((an illegal drug))~~ a laboratory for the production of controlled substances and methods for the testing of porous and nonporous surfaces, ground water, surface water, soil, and septic tanks for contamination. The rules shall establish decontamination standards for hazardous chemicals, including

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but not limited to methamphetamine, lead, mercury, and total volatile organic compounds.

(3) The department shall adopt rules regarding independent third party sampling including those pertaining to:

(a) Verification of possible property contamination due to the illegal manufacture of controlled substances;

(b) Verification of satisfactory decontamination of property deemed contaminated and unfit for use;

(c) Certification of independent third party samplers;

(d) Qualifications and performance standards for independent third party samplers;

(e) Administration of background checks for third party sampler applicants; and

(f) The denial, suspension, or revocation of independent third party sampler certification.

(4) For the purposes of this section, an independent third party sampler is a person who is not an employee, agent, representative, partner, joint venturer, shareholder, or parent or subsidiary company of the authorized contractor, the authorized contractor's company, or the property owner.

**NEW SECTION. Sec. 308** A new section is added to chapter 64.44 RCW to read as follows:

The department may evaluate annually a number of the property decontamination projects performed by licensed contractors to determine the adequacy of the decontamination work, using the services of an independent environmental contractor or state or local agency. If a project fails the evaluation and inspection, the contractor is subject to a civil penalty and license suspension, pursuant to RCW 64.44.060 (4) and (5); and the contractor is prohibited from performing additional work until deficiencies have been corrected.

**NEW SECTION. Sec. 309** The department of health shall report to the legislature on the feasibility of providing incentives and protections to landlords to encourage housing rentals to recovering substance abusers or those convicted of drug crimes. A final report must be submitted to the appropriate committees of the legislature by January 1, 2007.

**NEW SECTION. Sec. 310** The department of ecology shall, in consultation with interested local health jurisdictions and their corresponding city or county governments, conduct a pilot program to demonstrate application of existing legal methods and grant programs administered under the model toxics control act in chapter 70.105D RCW, and other available authorities and funds to clean up methamphetamine-contaminated property for a public purpose. This pilot program shall include: (1) A facility with hazardous substance releases to soil or ground water resulting from a former methamphetamine lab or other historic uses of the property that created liability under chapter 70.105D RCW; and (2) a facility where the primary issue is decontamination or demolition of methamphetamine contaminated structures and other solid waste related issues. The department of ecology shall submit a report on the pilot program to the appropriate committees of the legislature by January 1, 2007.

#### **PART IV CRIMINAL SANCTIONS AND PROCEDURE**

**Sec. 401** RCW 9.94A.533 and 2003 c 53 s 58 are each amended to read as follows:

(1) The provisions of this section apply to the standard sentence ranges determined by RCW 9.94A.510 or 9.94A.517.

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the standard sentence range is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by seventy-five percent.

(3) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a

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firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the firearm enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a firearm enhancement. If the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any firearm enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Five years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) Three years for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Eighteen months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced for any firearm enhancements under (a), (b), and/or (c) of this subsection and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (4)(a), (b), and/or (c) of this section, or both, all firearm enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(4);

(f) The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a firearm enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(4) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any deadly weapon enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the deadly weapon enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a deadly weapon enhancement. If the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any deadly weapon enhancements, the following additional times shall be

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added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Two years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) One year for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Six months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced under (a), (b), and/or (c) of this subsection for any deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (3)(a), (b), and/or (c) of this section, or both, all deadly weapon enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all deadly weapon enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(4);

(f) The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a deadly weapon enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(5) The following additional times shall be added to the standard sentence range if the offender or an accomplice committed the offense while in a county jail or state correctional facility and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state correctional facility, and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section:

(a) Eighteen months for offenses committed under RCW 69.50.401(2) (a) or (b) or 69.50.410;

(b) Fifteen months for offenses committed under RCW 69.50.401(2) (c), (d), or (e);

(c) Twelve months for offenses committed under RCW 69.50.4013.

For the purposes of this subsection, all of the real property of a state correctional facility or county jail shall be deemed to be part of that facility or county jail.

(6) An additional twenty-four months shall be added to the standard sentence range for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435 or 9.94A.605. All enhancements under this subsection shall run consecutively to all other sentencing provisions, for all offenses sentenced under this chapter.

(7) An additional two years shall be added to the standard sentence range for vehicular homicide committed while under the influence of intoxicating liquor or any drug as defined by

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RCW 46.61.502 for each prior offense as defined in RCW 46.61.5055.

**Sec. 402** RCW 9.94A.660 and 2005 c 460 s 1 are each amended to read as follows:

(1) An offender is eligible for the special drug offender sentencing alternative if:

(a) The offender is convicted of a felony that is not a violent offense or sex offense and the violation does not involve a sentence enhancement under RCW 9.94A.533 (3) or (4);

(b) The offender has no current or prior convictions for a sex offense at any time or violent offense within ten years before conviction of the current offense, in this state, another state, or the United States;

(c) For a violation of the Uniform Controlled Substances Act under chapter 69.50 RCW or a criminal solicitation to commit such a violation under chapter 9A.28 RCW, the offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance;

(d) The offender has not been found by the United States attorney general to be subject to a deportation detainer or order and does not become subject to a deportation order during the period of the sentence;

(e) The standard sentence range for the current offense is greater than one year; and

(f) The offender has not received a drug offender sentencing alternative more than once in the prior ten years before the current offense.

(2) A motion for a sentence under this section may be made by the court, the offender, or the state. If the sentencing court determines that the offender is eligible for this alternative, the court may order an examination of the offender. The examination shall, at a minimum, address the following issues:

(a) Whether the offender suffers from drug addiction;

(b) Whether the addiction is such that there is a probability that criminal behavior will occur in the future;

(c) Whether effective treatment for the offender's addiction is available from a provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services; and

(d) Whether the offender and the community will benefit from the use of the alternative.

(3) The examination report must contain:

(a) Information on the issues required to be addressed in subsection (2) of this section; and

(b) A proposed treatment plan that must, at a minimum, contain:

(i) A proposed treatment provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services;

(ii) The recommended frequency and length of treatment, including both residential chemical dependency treatment and treatment in the community;

(iii) A proposed monitoring plan, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others; and

(iv) Recommended crime-related prohibitions and affirmative conditions.

(4) After receipt of the examination report, if the court determines that a sentence under this section is appropriate, the court shall waive imposition of a sentence within the standard sentence range and impose a sentence consisting of either a prison-based alternative under subsection (5) of this section or a residential chemical dependency treatment-based alternative under subsection (6) of this section. The residential chemical dependency treatment-based alternative is only available if the midpoint of the standard range is twenty-four months or less.

(5) The prison-based alternative shall include:

(a) A period of total confinement in a state facility for one-half of the midpoint of the standard sentence range or

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twelve months, whichever is greater. During incarceration in the state facility, offenders sentenced under this subsection shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections;

(b) The remainder of the midpoint of the standard range as a term of community custody which must include appropriate substance abuse treatment in a program that has been approved by the division of alcohol and substance abuse of the department of social and health services. If the department finds that conditions have been willfully violated, the offender may be reclassified to serve the remaining balance of the original sentence. An offender who fails to complete the program or who is administratively terminated from the program shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court;

(c) Crime-related prohibitions including a condition not to use illegal controlled substances;

(d) A requirement to submit to urinalysis or other testing to monitor that status; and

(e) A term of community custody pursuant to RCW 9.94A.715 to be imposed upon failure to complete or administrative termination from the special drug offender sentencing alternative program.

(6) The residential chemical dependency treatment-based alternative shall include:

(a) A term of community custody equal to one-half of the midpoint of the standard sentence range or two years, whichever is greater, conditioned on the offender entering and remaining in residential chemical dependency treatment certified under chapter 70.96A RCW for a period set by the court between three and six months. If the court imposes a term of community custody, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the term of community custody. The court shall impose, as conditions of community custody, treatment and other conditions as proposed in the plan under subsection (3)(b) of this section. The department may impose conditions and sanctions as authorized in RCW 9.94A.715 (2), (3), (6), and (7), 9.94A.737, and 9.94A.740. The court shall schedule a progress hearing during the period of residential chemical dependency treatment, and schedule a treatment termination hearing for three months before the expiration of the term of community custody;

(b) Before the progress hearing and treatment termination hearing, the treatment provider and the department shall submit written reports to the court and parties regarding the offender's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment. At the hearing, the court may:

(i) Authorize the department to terminate the offender's community custody status on the expiration date determined under (a) of this subsection; or

(ii) Continue the hearing to a date before the expiration date of community custody, with or without modifying the conditions of community custody; or

(iii) Impose a term of total confinement equal to one-half the midpoint of the standard sentence range, followed by a term of community custody under RCW 9.94A.715;

(c) If the court imposes a term of total confinement under (b)(iii) of this subsection, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the terms of total confinement and community custody.

(7) If the court imposes a sentence under this section, the court may prohibit the offender from using alcohol or controlled substances and may require that the monitoring for controlled substances be conducted by the department or by a treatment

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alternatives to street crime program or a comparable court or agency-referred program. The offender may be required to pay thirty dollars per month while on community custody to offset the cost of monitoring. In addition, the court may impose any of the following conditions:

- (a) Devote time to a specific employment or training;
- (b) Remain within prescribed geographical boundaries and notify the court or the community corrections officer before any change in the offender's address or employment;
- (c) Report as directed to a community corrections officer;
- (d) Pay all court-ordered legal financial obligations;
- (e) Perform community restitution work;
- (f) Stay out of areas designated by the sentencing court;
- (g) Such other conditions as the court may require such as affirmative conditions.

(8)(a) The court may bring any offender sentenced under this section back into court at any time on its own initiative to evaluate the offender's progress in treatment or to determine if any violations of the conditions of the sentence have occurred.

(b) If the offender is brought back to court, the court may modify the terms of the community custody or impose sanctions under (c) of this subsection.

(c) The court may order the offender to serve a term of total confinement within the standard range of the offender's current offense at any time during the period of community custody if the offender violates the conditions of the sentence or if the offender is failing to make satisfactory progress in treatment.

(d) An offender ordered to serve a term of total confinement under (c) of this subsection shall receive credit for any time previously served under this section.

(9) If an offender sentenced to the prison-based alternative under subsection (5) of this section is found by the United States attorney general to be subject to a deportation order, a hearing shall be held by the department unless waived by the offender, and, if the department finds that the offender is subject to a valid deportation order, the department may administratively terminate the offender from the program and reclassify the offender to serve the remaining balance of the original sentence.

(10) An offender sentenced under this section shall be subject to all rules relating to earned release time with respect to any period served in total confinement.

(11) Costs of examinations and preparing treatment plans under subsections (2) and (3) of this section may be paid, at the option of the county, from funds provided to the county from the criminal justice treatment account under RCW 70.96A.350.

**Sec. 403** RCW 9.94A.500 and 2000 c 75 s 8 are each amended to read as follows:

(1) Before imposing a sentence upon a defendant, the court shall conduct a sentencing hearing. The sentencing hearing shall be held within forty court days following conviction. Upon the motion of either party for good cause shown, or on its own motion, the court may extend the time period for conducting the sentencing hearing.

Except in cases where the defendant shall be sentenced to a term of total confinement for life without the possibility of release or, when authorized by RCW 10.95.030 for the crime of aggravated murder in the first degree, sentenced to death, the court may order the department to complete a risk assessment report. If available before sentencing, the report shall be provided to the court.

Unless specifically waived by the court, the court shall order the department to complete a chemical dependency screening report before imposing a sentence upon a defendant who has been convicted of a violation of the uniform controlled substances act under chapter 69.50 RCW ~~((or))~~, a criminal solicitation to commit such a violation under chapter 9A.28 RCW, or any felony where the court finds that the offender has a chemical dependency that has contributed to his or her offense. In addition, the court shall, at the time of plea or conviction, order the department to complete a presentence

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report before imposing a sentence upon a defendant who has been convicted of a felony sexual offense. The department of corrections shall give priority to presentence investigations for sexual offenders. If the court determines that the defendant may be a mentally ill person as defined in RCW 71.24.025, although the defendant has not established that at the time of the crime he or she lacked the capacity to commit the crime, was incompetent to commit the crime, or was insane at the time of the crime, the court shall order the department to complete a presentence report before imposing a sentence.

The court shall consider the risk assessment report and presentence reports, if any, including any victim impact statement and criminal history, and allow arguments from the prosecutor, the defense counsel, the offender, the victim, the survivor of the victim, or a representative of the victim or survivor, and an investigative law enforcement officer as to the sentence to be imposed.

If the court is satisfied by a preponderance of the evidence that the defendant has a criminal history, the court shall specify the convictions it has found to exist. All of this information shall be part of the record. Copies of all risk assessment reports and presentence reports presented to the sentencing court and all written findings of facts and conclusions of law as to sentencing entered by the court shall be sent to the department by the clerk of the court at the conclusion of the sentencing and shall accompany the offender if the offender is committed to the custody of the department. Court clerks shall provide, without charge, certified copies of documents relating to criminal convictions requested by prosecuting attorneys.

(2) To prevent wrongful disclosure of information related to mental health services, as defined in RCW 71.05.445 and ~~((71.34.225))~~ 71.34.345, a court may take only those steps necessary during a sentencing hearing or any hearing in which the department presents information related to mental health services to the court. The steps may be taken on motion of the defendant, the prosecuting attorney, or on the court's own motion. The court may seal the portion of the record relating to information relating to mental health services, exclude the public from the hearing during presentation or discussion of information relating to mental health services, or grant other relief to achieve the result intended by this subsection, but nothing in this subsection shall be construed to prevent the subsequent release of information related to mental health services as authorized by RCW 71.05.445, ~~((71.34.225))~~ 71.34.345, or 72.09.585. Any person who otherwise is permitted to attend any hearing pursuant to chapter 7.69 or 7.69A RCW shall not be excluded from the hearing solely because the department intends to disclose or discloses information related to mental health services.

**NEW SECTION. Sec. 404** The Washington institute for public policy shall conduct a study of criminal sentencing provisions of neighboring states for all crimes involving methamphetamine. The institute shall report to the legislature on any criminal sentencing increases necessary under Washington law to reduce or remove any incentives methamphetamine traffickers and manufacturers may have to locate in Washington. The report shall be completed by January 1, 2007.

**NEW SECTION. Sec. 405** The Washington institute for public policy shall conduct a study of the drug offender sentencing alternative. The institute shall study recidivism rates for offenders who received substance abuse treatment while in confinement as compared to offenders who received treatment in the community or received no treatment. The institute shall report to the legislature by January 1, 2007.

## PART V MISCELLANEOUS

**NEW SECTION. Sec. 501** Part headings used in this act are no part of the law.



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SECOND READING

NEW SECTION. Sec. 502 If specific funding for the purposes of section 113 of this act, referencing this act and section 113 of this act by bill or chapter number and section number, is not provided by June 30, 2006, in the omnibus appropriations act, section 113 of this act is null and void.

NEW SECTION. Sec. 503 Section 109 of this act expires January 1, 2007.

NEW SECTION. Sec. 504 Sections 110 and 111 of this act take effect January 1, 2007."

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

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove and Stevens to Second Substitute Senate Bill No. 6239.

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

MOTION

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

On page 1, line 2 of the title, after "methamphetamine;" strike the remainder of the title and insert "amending RCW 2.28.170, 26.44.020, 26.44.020, 26.44.195, 74.34.020, 64.44.010, 64.44.020, 64.44.030, 64.44.040, 64.44.050, 64.44.060, 64.44.070, 9.94A.533, 9.94A.660, and 9.94A.500; adding a new section to chapter 70.96A RCW; adding a new section to chapter 72.09 RCW; adding a new section to chapter 64.44 RCW; adding a new chapter to Title 49 RCW; creating new sections; prescribing penalties; providing an effective date; and providing expiration dates."

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Second Substitute Senate Bill No. 6239 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6239.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6239 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 1; Excused, 6.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Mulliken, Oke, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 42

Absent: Senator Brown - 1

Excused: Senators Deccio, Hewitt, Honeyford, Jacobsen, Morton and Poulsen - 6

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6239, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SENATE BILL NO. 6674, by Senator Oke

Requiring that funds collected from construction of the second Tacoma Narrows bridge be deposited in the Tacoma Narrows toll bridge account.

The measure was read the second time.

MOTION

On motion of Senator Oke, the rules were suspended, Senate Bill No. 6674 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Oke, Haugen and Benson spoke in favor of passage of the bill.

MOTION

On motion of Senator Schoesler, Senators Zarelli and Benton were excused.

MOTION

On motion of Senator Weinstein, Senator Brown was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 6674.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6674 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 0; Absent, 0; Excused, 9.

Voting yea: Senators Benson, Berkey, Brandland, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Mulliken, Oke, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau and Weinstein - 40

Excused: Senators Benton, Brown, Deccio, Hewitt, Honeyford, Jacobsen, Morton, Poulsen and Zarelli - 9

SENATE BILL NO. 6674, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

MESSAGE FROM THE HOUSE

February 10, 2006

MR. PRESIDENT:

The House has passed the following bill(s):

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2353,

HOUSE BILL NO. 2454,

ENGROSSED HOUSE BILL NO. 3261,

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

February 10, 2006

MR. PRESIDENT:

The House has passed the following bill(s):  
 SUBSTITUTE HOUSE BILL NO. 1504,  
 SUBSTITUTE HOUSE BILL NO. 1827,  
 SUBSTITUTE HOUSE BILL NO. 2384,  
 HOUSE BILL NO. 2386,  
 SUBSTITUTE HOUSE BILL NO. 2493,  
 SUBSTITUTE HOUSE BILL NO. 2591,  
 SUBSTITUTE HOUSE BILL NO. 2596,  
 SUBSTITUTE HOUSE BILL NO. 2646,  
 HOUSE BILL NO. 2720,  
 HOUSE BILL NO. 2874,  
 HOUSE BILL NO. 2981,  
 HOUSE BILL NO. 3001,  
 SUBSTITUTE HOUSE BILL NO. 3085,  
 SUBSTITUTE HOUSE BILL NO. 3093,  
 HOUSE BILL NO. 3111,  
 HOUSE BILL NO. 3114,  
 SUBSTITUTE HOUSE BILL NO. 3128,  
 SUBSTITUTE HOUSE BILL NO. 3150,  
 HOUSE BILL NO. 3154,  
 HOUSE BILL NO. 3258,

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

At 5:26 p.m., on motion of Senator Eide, the Senate adjourned until 9:00 a.m. Saturday, February 11, 2006.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

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